



Global Nuclear Fuel

A Joint Venture of GE, Toshiba, & Hitachi

Global Nuclear Fuel

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Facility Licensing

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M170155

June 19, 2017

Director
Division of Spent Fuel Storage and Transportation
Office of Nuclear Materials Safety & Safeguards
U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555-0001

Subject: Modification to Certificate of Compliance for the New Powder Container

References: (1) Docket 71-9294, USA/9294/AF-96
(2) SPM-06-009, GNFA Memo S.P. Murray to E.W. Brach, October 3, 2006.
(3) Teleconference between J. Harrison (GEH) and J. McKirgan (NRC) 6/2017

Global Nuclear Fuel-Americas, LLC (GNF-A) hereby requests an update to the Certificate of Compliance USA/9294/AF-96 to expand authorized contents to include additional uranium concentrates and to re-instate the previously approved BWR/PWR pellet payload. Current customer demands from Europe and Asia are requesting additional uranium concentrates be authorized for shipment in the NPC Type A, Fissile nuclear package. This request provides the corresponding technical justification.

Prior foreign competent authority technical issues made available to the US NRC and discussed in a meeting between GNF-A and the NRC-SFPO on June 13, 2006 (2) are no longer valid. GNF-A is requesting re-instatement of the previously approved BWR/PWR pellet provision in support of anticipated pellet orders to reduce the overall number of NPC packages required for transport.

Attachment 2 contains a description and explanation of all changes being requested and where in the application they may be found. Attachment 3 contains the revised Chapter 1 and Chapter 6 of the NPC SAR. All pages of the NPC SAR will correspond to the latest revision number, in this case, revision 6. Attachment 3 contains proprietary information and should be withheld from public disclosure. Attachment 4 contains the non-proprietary version.

Please contact Lon Paulson at (910) 819-5460 or Don Hartsock at (910) 819-5443 if you have any questions or would like to discuss the matter further.

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Commitments: None

Attachment(s): 1. Affidavit
2. NPC SAR Revision Change Table
3. NPC Safety Analysis Report Revision 6 (Proprietary)
4. NPC Safety Analysis Report Revision 6 (Non-Proprietary)

Cc: John McKirgan - US NRC, Washington, DC
Norma Garcia-Santos – US NRC, Washington, DC

AFFIDAVIT

I, **Phillip D. Ollis**, state as follows:

- (1) I am the Licensing Engineer, Facility Licensing of Global Nuclear Fuel (GNF) and have been delegated the function by GNF of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in Attachments 2 - 4 to GNF's letter, M170155, Phillip D. Ollis to DCD, NRC Headquarters entitled "Modification to Certificate of Compliance for the New Powder Container". GNF proprietary information is contained in Attachment 3, and is identified by the statement "Contains GNF Proprietary Information".
- (3) In making this application for withholding of proprietary information of which it is the owner or licensee, GNF relies upon the exemption from disclosure set forth in the Freedom of Information Act (FOIA), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.390(a)(4) for trade secrets (Exemption 4). The material for which exemption from disclosure is here sought also qualifies under the narrower definition of trade secret, within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975 F2d 871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704 F2d 1280 (DC Cir. 1983).
- (4) The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a. and (4)b. Some examples of categories of information that fit into the definition of proprietary information are:
 - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GNF's competitors without license from GNF constitutes a competitive economic advantage over GNF and/or other companies.
 - b. Information that, if used by a competitor, would reduce their expenditure of resources or improve their competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
- (5) To address 10 CFR 2.390(b)(4), the information sought to be withheld is being submitted to the NRC in confidence. The information is of a sort customarily held in confidence by GNF, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by GNF, not been disclosed publicly, and not been made available in public sources. All disclosures to third parties, including any required transmittals to the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary and/or confidentiality agreements that provide for maintaining the information in confidence. The initial designation of this information as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure are as set forth in the following paragraphs (6) and (7).
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, who is the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or who is the person most likely to be subject to the terms under which it was licensed to GEH. Access to such documents within GNF is limited to a "need to know" basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist, or other equivalent authority for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GNF are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary and/or confidentiality agreements.

- (8) The information identified in paragraph (2) above is classified as proprietary because it contains details of GNF's processes, design and manufacturing facilities.
- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GNF's competitive position and foreclose or reduce the availability of profit-making opportunities. The facility design and licensing methodology is part of GNF's comprehensive safety and technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical and NRC review costs comprise a substantial investment of time and money by GNF. The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial. GNF's competitive advantage will be lost if its competitors are able to use the results of the GNF experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to GNF would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive GNF of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining these very valuable analytical tools.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of June, 2017.



Phillip D. Ollis
Global Nuclear Fuel

STATE OF NORTH CAROLINA)
)
COUNTY OF NEW HANOVER)

Subscribed and sworn to me, a Notary Public, in and for the State of North Carolina, this 19th day of June, 2017.



Notary Public in and for the
State of North Carolina

My Commission Expires: June 23, 2018

