

acceptable margin of safety against brittle failure of the RPV.

The NRC staff has reviewed the exemption request submitted by FPLE Seabrook and has concluded that an exemption should be granted to permit the licensee to utilize the provisions of ASME Code Case N-641 for the purpose of developing Seabrook RPV P-T limit curves.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

Special circumstances, pursuant to 10 CFR 50.12(a)(2)(ii), are present in that continued operation of Seabrook with the P-T limit curves developed in accordance with ASME Section XI, Appendix G without the relief provided by ASME Code Case N-641 is not necessary to achieve the underlying purpose of appendix G to 10 CFR part 50. Application of ASME Code Case N-641 in lieu of the requirements of ASME Code Section XI, Appendix G provides an acceptable alternative methodology which will continue to meet the underlying purpose of appendix G to 10 CFR part 50. The underlying purpose of the regulations in appendix G to 10 CFR part 50 is to provide an acceptable margin of safety against brittle failure of the RCS during any condition of normal operation to which the pressure boundary may be subjected over its service lifetime.

The staff examined the licensee's rationale to support the exemption request, and concluded that the use of ASME Code Case N-641 would satisfy 10 CFR part 50, section 50.12(a)(1) as follows:

(1) The requested exemption is authorized by law:

No law exists which precludes the activities covered by this exemption request. The regulation 10 CFR part 50, section 50.60(b), allows the use of alternatives to 10 CFR part 50, appendices G and H, when an exemption is granted by the Commission pursuant to 10 CFR part 50, section 50.12.

(2) The requested exemption does not present an undue risk to the public health and safety:

ASME Code Case N-641 permits the use of alternate reference fracture toughness (K_{IC} fracture toughness curve

instead of K_{IA} fracture toughness curve) for RPV Materials in determining the P-T limits. The use of the K_{IC} curve provides greater allowable fracture toughness than the corresponding K_{IA} curve. The other margins involved with the ASME Code, Section XI, Appendix G process of determining P-T limit curves remain unchanged.

Use of the K_{IC} curve in determining the lower-bound fracture toughness, which is, in turn, used in the development of the P-T operating limits curve, models the slow heatup and cooldown process of a reactor vessel. The K_{IC} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of an RPV.

Use of this approach is justified by the initial conservatism of the K_{IA} curve when it was codified in 1974. This initial conservatism was necessary due to limited knowledge of RPV material fracture toughness. Since 1974, additional knowledge has been gained about the fracture toughness of vessel materials and their fracture response to applied loads. The additional knowledge demonstrates that the lower-bound fracture toughness provided by the K_{IA} curve is well beyond the margin of safety required to protect against potential RPV failure. The lower-bound K_{IC} fracture toughness provides an adequate margin of safety to protect against potential RPV failure and does not present an undue risk to public health and safety.

(3) The requested exemption will not endanger the common defense and security:

The common defense and security are not affected and, therefore, not endangered by this exemption.

Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of appendix G to 10 CFR part 50; Appendix G to Section XI of the ASME Code; and Regulatory Guide 1.99, Revision 2; the staff concluded that application of ASME Code Case N-641, as described, would provide an adequate margin of safety against brittle failure of the RPV. Therefore, the staff concludes that pursuant to 10 CFR 50.12(a)(1), an exemption from the requirements of 10 CFR part 50, appendix G is appropriate, and that the methodology of Code Case N-641 may be used to revise the P-T limits for the Seabrook RPV.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by

law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants FPL Energy Seabrook, LLC an exemption from the requirements of 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, to allow application of ASME Code Case N-641 in establishing TS requirements for the reactor vessel pressure limits at low temperatures for Seabrook.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (68 FR 44109).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 1st day of August, 2003.

For The Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 040-08798]

Notice of Consideration of Request for License Termination of Hitchcock Industries, Inc. License and Release of Its Facility in Minneapolis, Minnesota, Amendment, and Opportunity To Provide Comments and Request a Hearing

ACTION: Notice of consideration of amendment request to terminate Source Material License No. SMB-1404 and release of facility for unrestricted use.

FOR FURTHER INFORMATION CONTACT: Dr. Peter J. Lee, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III, 801 Warrenville Road, Lisle, Illinois 60532-4351; telephone (630) 829-9870 or by e-mail at pjl2@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an amendment to Hitchcock Industries, Inc. (Hitchcock) Source Material License No. SMB-1404, to terminate the license and release its facility located at 8701 Harriet Avenue South in Minneapolis, Minnesota, for unrestricted use. In 1982, this license

was approved for the fabrication of magnesium and thorium alloy castings for the aircraft industry. This license authorized alloying thorium ingots, containing up to 41 percent by weight of thorium, with magnesium and other additives to produce magnesium/thorium alloy castings containing up to 4 percent by weight of thorium. On January 28, 2003, Hitchcock notified the NRC of the license termination.

The NRC staff has prepared an Environmental Assessment (EA) in support of this licensing action in accordance with the requirements of 10 CFR part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

II. EA Summary

The staff has examined Hitchcock's request and the information that the licensee has provided in support of its request, including the surveys performed by Hitchcock to demonstrate compliance with 10 CFR 20.1402, "Radiological Criteria for Unrestricted Use," to ensure that the NRC's decision protects the public health and safety and the environment. Based on its review, the staff has determined that the affected environment and the environmental impacts associated with the unrestricted use of Hitchcock Industries, Inc. facilities are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" (NUREG-1496). The staff also finds that the proposed release for unrestricted use of the Hitchcock facility is in compliance with the 10 CFR part 20.1402.

III. Finding of No Significant Impact

The staff has prepared the EA (summarized above) in support of Hitchcock's proposed license amendment to release the Minneapolis facility for unrestricted use. On the basis of the EA, the staff has concluded that the environmental impacts from the proposed action would not be significant. Accordingly, the staff has determined that a FONSI is appropriate, and has determined that the preparation of an environmental impact statement is not warranted.

IV. Further Information

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," Hitchcock's request, the EA summarized above, and the documents related to this proposed action are available electronically for public inspection and copying 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.html>. These documents include Hitchcock's letter dated January 28, 2003, and faxes dated April 8, 11, and 21, 2003, with enclosures (Accession

No. ML031990158); fax dated May 16, 2003, with enclosures (Accession No. ML031990380); and the EA summarized above (Accession No. ML032120132). Any questions with respect to this action should be directed to Dr. Peter J. Lee, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III, 801 Warrenville Road, Lisle, Illinois 60532-4351; telephone (630) 829-9870 or by e-mail at pjl2@nrc.gov.

Dated at Lisle, Illinois, this 31st day of July, 2003.

For the Nuclear Regulatory Commission.

Christopher G. Miller,

Chief, Decommissioning Branch, Division of Nuclear Materials Safety, RIII.

[FR Doc. 03-20149 Filed 8-6-03; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 70-143, License No. SNM-124 EA-03-132]

In the Matter of Nuclear Fuel Services, Inc., Erwin, TN; Confirmatory Order Modifying License (Effective Immediately)

I

Nuclear Fuel Services, Inc., (NFS) is the holder of Special Nuclear Material License No. SNM 124 issued by the U.S. Nuclear Regulatory (NRC or Commission) pursuant to 10 CFR part 70. NFS is authorized by their license to receive, possess, and transfer special nuclear material in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR part 70. The NFS license, originally issued on September 18, 1957, was renewed on July 2, 1999, and is due to expire on July 31, 2009.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The

Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are warranted as prudent, interim measures to address the current threat environment. Therefore, the Commission is imposing interim requirements, set forth in Attachment 1¹ of this Order, which supplement existing regulatory requirements, to provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

III

In February 2003, NRC issued Orders to Category III fuel cycle licensees directing each licensee to implement interim compensatory measures (ICMs) to enhance physical security at its facilities. NFS did not receive an order at that time because an amendment authorizing operation of a new Category III complex was still pending. In a letter to NFS dated February 11, 2003, NRC provided a copy of the ICMs to NFS for its information and use in designing the new complex. NFS responded on March 25, 2003, indicating its intention to comply with the ICMs.

The Commission recognizes that some of the requirements set forth in Attachment 1² to this Order have already been initiated by NFS in response to previously-issued advisories, or on its own³ and that some measures have been tailored to specifically accommodate the specific circumstances and characteristics existing at NFS's facility to achieve the

¹ Attachment 1 contains safeguards information and will not be released to the public.

² To the extent that specific measures identified in Attachment 1 to this Order require actions pertaining to NFS's possession and use of chemicals, such actions are being directed on the basis of the potential impact of such chemicals on radioactive materials and activities subject to NRC regulation.

³ See letter from B. Marie Moore, Vice President, NFS, to Mary T. Adams, NRC, dated July 3, 2003.