

WEST VALLEY LEGISLATIVE AND REGULATORY HISTORY

1. INTRODUCTION

The Western New York Nuclear Service Center (Center) is an approximately 1335-hectare (3300-acre) tract of land owned by New York State Energy Research and Development Authority (NYSERDA) in rural western New York. The Center, which is also referred to as the West Valley site, is the location of the only commercial spent fuel reprocessing plant to operate in the United States. The former reprocessing plant is an approximately 77-hectare (190-acre) area situated in the center of the tract of land owned by NYSERDA. From 1966 - 1972, under an Atomic Energy Commission license, Nuclear Fuels Services (NFS) reprocessed 640 metric tons (705 tons) of spent fuel at this facility. In 1972, NFS shut down the facility for modifications and never restarted operations. In 1976, NFS withdrew from the reprocessing business and returned control of the facility to NYSERDA. The reprocessing activities resulted in approximately 2,271,247 liters (600,000 gallons) of liquid high-level waste (HLW) stored below ground in tanks, other buried radioactive wastes, and residual radioactive contamination. SECY-98-251 (October 30, 1998) provides additional background on West Valley radioactive waste and various waste management areas, including the NRC-licensed Disposal Area and State-licensed Disposal Area.

2. WEST VALLEY DEMONSTRATION PROJECT ACT

In 1980, Congress passed the West Valley Demonstration Project (WVDP) Act. The WVDP Act directed DOE, in cooperation with NYSERDA (the owner of the site and holder of the U.S. Nuclear Regulatory Commission (NRC) license which is now in abeyance) to conduct a HLW solidification demonstration project at the West Valley site. This U.S. Department of Energy (DOE) project is referred to as the WVDP, or simply the "project." The WVDP Site (Project Premises), State-licensed Disposal Area, and Center boundaries are illustrated in Enclosure 2. Specifically, the WVDP Act directed DOE to: (1) solidify, transport, and dispose of the solidified HLW at a Federal repository; (2) dispose of low-level waste (LLW) and transuranic waste produced in solidifying the HLW in accordance with applicable licensing requirements; and (3) decontaminate and decommission the facilities, materials, and hardware used in the project in accordance with such requirements as the Commission may prescribe.

Pursuant to the WVDP Act, NRC's responsibilities include: (1) prescribing requirements for decontamination and decommissioning of project facilities; (2) providing informal review and consultation to DOE on activities related to the project; and (3) monitoring project activities for the purpose of assuring the public health and safety. NRC is not authorized to: (1) regulate DOE project activities; (2) enforce DOE's compliance with the decontamination and decommissioning criteria that NRC prescribes; or (3) determine whether or when DOE has completed decontamination and decommissioning for the project.

The WVDP Act also directed DOE and NRC to enter into an agreement to establish arrangements for NRC's informal review of, and consultation on the project. On September 23, 1981, NRC entered into a Memorandum of Understanding (MOU) with DOE on guidelines and mechanisms for coordinating the informal review and consultation between NRC and DOE. The MOU also established an NRC monitoring program for onsite evaluations of project activities. Currently, NRC monitoring visits occur three to four times per year.

3. SCOPE OF NRC'S LICENSE

NRC has continuing regulatory responsibilities under the Atomic Energy Act for the Center, which is subject to an NRC license, pursuant to 10 CFR Part 50. In 1981, NRC placed the license in abeyance to execute the 1980 WVDP Act (Enclosure 4 provides a summary of license amendments after WVDP Act). SECY-99-057 (February 23, 1999), a joint paper by the General Counsel and the Executive Director for Operations in response to a Staff Requirements Memorandum (January 26, 1999) described the scope of the NRC license before it was placed in abeyance. The paper stated that:

The original license (CSF-1, dated April 19, 1966) states that the license applies to "the irradiated nuclear fuel processing plant (the 'facility') located at the Western New York Nuclear Service Center, Cattaragus and Erie Counties, New York, and described in Part B of the revised license application, as amended, filed by Nuclear Fuel Services, Inc...." The description in Part B of the revised license application (now the Final Safety Analysis Report) describes the 77-hectare (190-acre) plant site as being located in the center of a 1335-hectare (3300-acre) exclusion area. The exclusion area corresponds to the area of the Western New York Nuclear Service Center. The staff believes that the license principally covers the smaller 77-hectare (190-acre) area around the facility and to a more limited degree, the exclusion area.

4. NRC WEST VALLEY POLICY STATEMENT

On February 1, 2002, under the authority of the WVDP Act, the Commission issued a "Final Policy Statement on Decommissioning Criteria for the West Valley Demonstration Project at the West Valley Site" (67 FR 5003; February 1, 2002). The Commission's West Valley policy statement prescribed NRC's License Termination Rule (LTR) as the decommissioning criteria for the project, reflecting the fact that the applicable decommissioning goal for the entire NRC-licensed site is compliance with the requirements of the LTR. The Commission's policy statement emphasized the need for flexibility both to ensure public health and safety and protection of the environment, and to define all practical solutions to the unique challenges presented by the West Valley site.

5. STATUS OF ACTIVITIES

In September 2002, the project completed the solidification of liquid HLW into 275 canisters that are stored onsite pending transport and disposal at a Federal repository. The project continues to ship LLW offsite for disposal, and to decontaminate and dismantle facilities used during the project. NRC is participating as a cooperating agency in the development of the Decommissioning and/or Long-Term Stewardship Environmental Impact Statement (EIS) for the West Valley site. In September 2005, cooperating agencies initiated their review of a preliminary draft of this EIS. In 2007, DOE expects to issue a draft EIS for public comment and to submit its DP for NRC review. The EIS will evaluate a range of alternatives for site decommissioning and ultimately select a preferred alternative. DOE's DP will describe DOE's plans for decommissioning project facilities and demonstrating compliance with the Commission's decommissioning requirements.