

(for example, the plume has passed over New London and adverse radiological conditions exist), the ferry would be directed to another port.

FEMA's report indicates that certain enhancements to the Fishers Island plan are being considered and its September 2, 1999, report summarized some of the ongoing emergency planning activities. In July 1998, Northeast Utilities (the licensee), the Connecticut Office of Emergency Management, and FEMA Regions I and II, participated in a demonstration of a ferry run from Fishers Island to Stonington, Connecticut. The objective of this demonstration was to determine the feasibility of having the ferry pick up people from Fishers Island and take them to Stonington, which is located about 7 miles northeast of Fishers Island. The plan and preparations for adding the Port of Stonington, Connecticut, as a receiving port for Fishers Island evacuees is projected to be completed by the end of 1999. Windham, Connecticut, will continue to be used as the host community for Fishers Island residents. FEMA will review changes to the offsite emergency plans to ensure that the plans are adequate and capable of being implemented.

FEMA's report stated that an agreement exists between the Connecticut Office of Emergency Management and the Fishers Island Ferry District for the exclusive use of their ferries in the event of an incident at Millstone. Further, FEMA indicated that negotiations are in progress for an agreement between the Connecticut Office of Emergency Management and the Cross Sound Ferry Company for the use of five of their ferries in the event of an emergency at Millstone.

FEMA's report also noted that in September 1998, a meeting between Connecticut and New York State emergency management agencies was held in Hartford, Connecticut, to discuss offsite emergency preparedness for Millstone and the degree of coordination and communications. At the meeting were representatives of the Connecticut Office of Emergency Management, the New York State Emergency Management Office, Northeast Utilities, FEMA, and the NRC. Further, in October 1998, the Connecticut Office of Emergency Management and the New York State Emergency Management Office met to discuss other ways of improving communications in making appropriate protective action decisions for Fishers Island.

On June 22, 1999, the Connecticut Office of Emergency Management held

its quarterly emergency management director's meeting on Fishers Island to discuss emergency response issues concerning Millstone. The emergency management directors from the Millstone EPZ communities attended this meeting, including those from Fishers Island, the Town of Southold, New London, Stonington, and the host community of Windham, Connecticut. This meeting gave these key emergency management directors an opportunity to communicate directly.

In its September 2, 1999, letter to the NRC, FEMA stated that on the basis of its assessment of emergency planning for the Millstone Nuclear Power Station, there is continued reasonable assurance that adequate protective measures can be taken to protect the public health and safety in the event of a radiological emergency at Millstone.

### III. Conclusion

After reviewing FEMA's findings and determinations on the adequacy of offsite emergency preparedness and the NRC's assessment of onsite emergency preparedness, the NRC has determined that there is continued reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at Millstone. In addition, based on FEMA's findings on the adequacy of emergency preparedness for Fishers Island, the NRC concludes that the Fishers Island emergency plan is adequate and there is reasonable assurance that it can be implemented. Further, the NRC recognizes that potential enhancements are being implemented to improve the protection of the health and safety of the population on Fishers Island. As a result of these findings by FEMA and the NRC, the NRC has determined that the Petitioner's request to suspend the operating licenses for Millstone Unit Nos. 2 and 3 until a range of protective actions are developed for the 10-mile EPZ (first Petition, Request 2) is denied.

A Copy of this Final Director's Decision will be placed in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and at the Waterford Library, 49 Rope Ferry Road, Waterford, Connecticut.

As provided in 10 CFR 2.206(c), a copy of this Final Director's Decision will be filed with the Secretary of the Commission for the Commission's review. This Final Director's Decision will constitute the final action of the

Commission 25 days after its issuance, unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 28th day of September 1999.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 99-25716 Filed 10-1-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-14016; License No. 21-18668-01; EAs 99-097 & 99-169]

**Testing Engineers & Consultants, Inc.; Troy, Michigan; Order Imposing Civil Monetary Penalty**

### I

Testing Engineers & Consultants, Inc. (Licensee) is the holder of Byproduct Materials License No. 21-18668-01 which was last renewed in its entirety by the Nuclear Regulatory Commission (NRC or Commission) on September 17, 1996. The license authorizes the Licensee to use certain byproduct material in accordance with the conditions specified therein.

### II

Between July 28, 1998 and March 23, 1999, an inspection and an investigation of the Licensee's activities were conducted. The results of the inspection and the investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was served upon the Licensee by letter dated July 8, 1999. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalties proposed for the violations.

The Licensee responded to the Notice in letters dated August 4 and 13, 1999. In its responses, the Licensee agreed with the information presented in the Notice, admitted the violations, but requested mitigation or remission of the civil penalties.

### III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that

the penalties proposed for the violations designated in the Notice should be imposed.

#### IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered* that:

The Licensee pay civil penalties in the amount of \$5,500 within 30 days of the date of this Order, in accordance with NUREG/BR-0254. In addition, at the time of making the payment, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

#### V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

Whether on the basis of the violations admitted by the Licensee, this Order should be sustained.

Dated this 24th day of September, 1999.

For the Nuclear Regulatory Commission.

**R. W. Borchardt,**

*Director, Office of Enforcement.*

#### Appendix: Evaluations and Conclusion

On July 8, 1999, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC inspection and an investigation. Testing Engineers & Consultants, Inc. (Licensee or TEC) responded to the Notice by two letters dated August 4 and 13, 1999. The Licensee admitted the violations occurred, but requested mitigation or remission of the civil penalties. The NRC's evaluation and conclusion regarding the licensee's requests are as follows:

##### *Summary of Licensee's Request for Remission or Mitigation*

The Licensee states that no escalated enforcement has occurred since September 1995 and that its overall performance of licensed activities has been good. The Licensee contends that compliance with license requirements as well as prompt identification and comprehensive corrective action of violations has always been emphasized and encouraged. The Licensee states that it understands the severity of the violations and will make every effort to regain the trust and confidence of the NRC by ensuring that it acts with integrity and abides by requirements designed to protect public health and safety.

The Licensee maintains that every effort is made to educate its employees to implement all of the terms and conditions of its NRC license. According to the Licensee, the employee involved had been properly trained and instructed and there was little else that could have been done to prevent this incident from occurring. The Licensee suggested that the NRC should fine the individual as well as the company.

##### *NRC Evaluation of Licensee's Request for Remission or Mitigation*

The NRC concurs with the Licensee regarding its enforcement history and overall good performance. Enforcement history and licensee performance are used in determining which enforcement action will be taken. In accordance with Section VI.B.2. of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG 1600, Revision 1, enforcement history is considered in two of the four decisional points in the civil penalty assessment process. Specifically, when the NRC determines that a non-willful Severity Level III violation has occurred, and the licensee has not had any previous escalated actions during the past 2 years or 2 inspections, whichever is longer, the NRC considers whether the licensee's corrective action for the violation is reasonably prompt and comprehensive. If a willful Severity Level III violation has occurred—or if, during the past 2 years or 2 inspections, the licensee has been issued at least one other escalated action—the civil penalty assessment normally considers the factor of identification *in addition* to corrective action. As to the second decisional point, the NRC may exercise discretion by either escalating

or mitigating a sanction based, in part, on the enforcement history. For example, the NRC may either propose a civil penalty where application of the factors would otherwise result in zero penalty or escalate the amount of the resulting civil penalty in cases involving particularly poor licensee performance, or involving willfulness. On the other hand, the NRC may exercise discretion and refrain from issuing a civil penalty in cases where the overall sustained performance of the licensee has been good.

In this case, the Licensee's enforcement history is irrelevant with regard to the first decisional point because the violations were willful. As to the second decisional point, the NRC considered the Licensee's enforcement history and determined that, on balance, neither escalation nor mitigation was warranted because, while the Licensee's enforcement history has been good, the violations involved willfulness. Willful violations are of particular concern because the Commission's regulatory program is based on licensees acting with integrity and communicating with candor.

With regard to the assessment factors, both noncompliances were characterized as willful Severity Level III violations and, consistent with Section VI.B.2. of the Enforcement Policy, the NRC considered both identification and corrective action. In this case, the NRC concluded that credit was not warranted for identification because NRC staff identified the violations, but credit was warranted for corrective action based on the promptness and comprehensiveness of the actions taken. Consideration of the identification and corrective action factors yielded a base civil penalty of \$2,750 for each of the violations described in the Notice.

As to the Licensee's argument about its efforts to educate employees and to prevent the incident, according to Section VI.B of the Enforcement Policy, management involvement, direct or indirect, in a violation may lead to an increase in the civil penalty; however, the lack of management involvement in a violation may not be used to mitigate a civil penalty. The Licensee is responsible for violations caused by its employees, whether arising from inadvertent error or willful acts. The licensee hires, trains, and supervises its employees. All licensed activities are carried out by employees of the licensee and, therefore, all violations are caused by employees of the licensee. A licensee enjoys the benefits of good employee performance and suffers the consequences of poor employee performance. To not hold the licensee responsible for the actions of its employees, whether such actions result from incompetence, negligence, or willfulness, is equivalent to not holding the licensee responsible for its use and possession of licensed material. If the NRC were to adopt such a premise, there would be no incentive for licensees to assure compliance with NRC requirements.

With respect to the licensee's suggestion about fining the individual as well as the company, the NRC notes that while it is not the Commission's general policy to monetarily penalize individuals, the NRC takes enforcement sanctions against individuals. Notices of Violation and Orders

are examples of enforcement actions that may be appropriate against individuals. The Notice of Violation issued to the Licensee's employee was deemed the appropriate action in this case.

#### *NRC Conclusion*

The NRC has concluded that the Licensee did not provide an adequate basis for remission or mitigation of the civil penalties. Consequently, the proposed civil penalty in the amount of \$5,500 should be imposed.

[FR Doc. 99-25718 Filed 10-1-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### Standard Review Plan: Licensee Requests To Delay Initiation of Decommissioning Activities

NRC's "Timeliness in Decommissioning of Materials Facility" rule (hereafter the Timeliness Rule), became effective on August 15, 1994. The Timeliness Rule established the criteria necessary to avoid future problems resulting from delayed decommissioning of contaminated inactive facilities, separate buildings, and outdoor areas.

In May 1996, the Nuclear Energy Institute (NEI) filed a petition for rulemaking to amend the Timeliness Rule to allow licensees to delay decommissioning and operate in a "standby" mode. NRC denied NEI's petition for rulemaking because the Timeliness Rule contains provisions which allow licensee's to request delays or postponement of decommissioning, provided they can demonstrate that the delay is not detrimental to the public health and safety and is otherwise in the public interest. However, along with denying the petition, the Commission requested that NRC staff prepare guidance to identify the acceptance criteria necessary to demonstrate that postponement of decommissioning activities will not be detrimental to the public health and safety and is otherwise in the public interest.

In response to the Commission request, NRC staff has developed the draft Standard Review Plan (SRP) titled, "Licensee Requests to Delay Initiation of Decommissioning Activities." NRC posted the draft SRP on the internet ([www.nrc.gov/NMSS/DWM/DECOM/decomm.htm](http://www.nrc.gov/NMSS/DWM/DECOM/decomm.htm)) on August 11, 1999, to provide interested parties an opportunity to review and comment on NRC's acceptance criteria necessary to demonstrate that postponement of decommissioning activities will not be detrimental to the public health and safety and is otherwise in the public

interest. NRC staff received no comments on the draft SRP by the end of the initial comment period. Therefore, NRC staff is extending the comment period until October 15, 1999. NRC will consider all comments received in finalizing the SRP for implementation.

The draft SRP is available for inspection at the NRC's Public Document Room, 2120 L Street NW., Washington, DC 20555-0001.

Dated at Rockville, Maryland, this 22nd day of September 1999.

For the Nuclear Regulatory Commission.  
**Larry W. Camper,**

*Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 99-25717 Filed 10-1-99; 8:45 am]

BILLING CODE 7590-01-P

## OFFICE OF PERSONNEL MANAGEMENT

### Federal Salary Council

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of meeting.

**SUMMARY:** According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the fifty-sixth meeting of the Federal Salary Council will be held at the time and place shown below. At the meeting, the Council will continue discussing issues relating to locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meeting is open to the public.

**DATES:** October 15, 1999, at 1:00 p.m.

**ADDRESSES:** Office of Personnel Management, 1900 E Street NW., Room 7310, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Jerome D. Mikowicz, Chief, Salary and Wage Systems Division, Office Of Personnel Management, 1900 E Street NW., Room 7H31, Washington, DC 20415-0001. Telephone number: (202) 606-2838.

For the President's Pay Agent.

**Janice R. Lachance,**  
*Director.*

[FR Doc. 99-25798 Filed 10-1-99; 8:45 am]

BILLING CODE 6325-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following open meeting during the week of October 4, 1999.

An open meeting will be held on Wednesday, October 6, 1999, at 10:00 a.m.

The subject matter of the open meeting scheduled for Wednesday, October 6, 1999, at 10:00 a.m. will be:

The Commission will consider proposing new rules and amendments to current rules to improve disclosure relating to the functioning of corporate audit committees and to enhance the reliability and credibility of financial statements of public companies. For further information contact: Mark Borges, Attorney-Adviser, Division of Corporation Finance (202-942-2900), Meridith Mitchell, Senior Counselor, Office of the General Counsel (202-942-0900), or Robert E. Burns, Chief Counsel, or W. Scott Bayless, Associate Chief Accountant, Office of the Chief Accountant (202-942-4400).

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: September 29, 1999.

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 99-25799 Filed 9-30-99; 1:16 pm]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

**Release No. 34-41912; File No. SR-CBOE-99-24**

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.: Order Approving Proposed Rule Change Relating to Option Trading Permit Auction Procedures

September 24, 1999.

#### I. Introduction

On June 9, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act