

For the Nuclear Regulatory Commission.  
Dated this 15th day of February 2000 at  
Rockville, Maryland.

**Ronald D. Hauber,**

*Deputy Director, Office of International  
Programs.*

[FR Doc. 00-4082 Filed 2-18-00; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-454 and STN 50-455]

### **Commonwealth Edison Company, Byron Station, Units 1 and 2; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses**

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Commonwealth Edison Company (ComEd, the licensee) to withdraw its October 16, 1997, application for proposed amendments to Facility Operating Licenses Nos. NPF-37 and NPF-66 for the Byron Station, Unit Nos. 1 and 2, located in Ogle County, Illinois.

The proposed amendments would have revised the license of Byron, Unit 1, to incorporate an exemption from 10 CFR 70.24(a) consistent with the Unit 2 license. The Unit 2 license would have been amended accordingly.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on April 22, 1998 (63 FR 19966). However, by letter dated January 6, 2000, the licensee withdrew the proposed changes.

For further details with respect to this action, see the application for amendments dated October 16, 1997, and the licensee's letter dated January 6, 2000, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 15th day of February 2000.

For the Nuclear Regulatory Commission.

**George F. Dick, Jr.,**

*Sr. Project Manager, Section 2, Project  
Directorate III, Division of Licensing Project  
Management, Office of Nuclear Reactor  
Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271]

### **Vermont Yankee Nuclear Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) for operation of the Vermont Yankee Nuclear Power Station (VY) located in Vernon, Vermont.

The proposed amendment would delete the requirement to exercise main steam isolation valves (MSIVs) twice weekly by partial closure and subsequent re-opening. The quarterly full-stroke testing TS requirements are retained.

Beginning with partial closure testing performed on January 17, 2000, MSIV 80-C has exhibited slower than normal re-opening time during the test. Closing times and the quarterly full stroke testing of this MSIV in accordance with the inservice testing (IST) program have been acceptable. However, the re-opening time has continued to be erratic since the January 17 test and is trending up (i.e., taking longer to re-open). This is evidenced by two other tests indicating slower than expected re-opening times. If the MSIV were to fail to re-open and continue closing, a plant transient could result. Therefore, the licensee stated that exigent circumstances exist because continued partial-closure testing of inboard MSIV 80-C has the potential to induce an operational transient, considering the probable degraded condition of its test pilot valve. The test pilot valve is not used to test the safety function of the MSIV; its use is required to perform the twice-weekly partial closure exercise of the MSIV.

Prior to January 17, 2000, there was no indication of degradation of MSIV partial-closure testing performance. A review of inservice testing data for all MSIVs since 1996 indicates all MSIVs have met acceptance criteria relative to demonstrating isolation (full closure) times within 3-5 seconds as required by Technical Specifications and assumed in accident analyses. The licensee could not have anticipated the need for processing this change under 10 CFR 50.91(a)(6) since the circumstance described above is recently occurring

and is only evident in three recent partial-closure tests. The situation was unavoidable considering the past reliable performance of the MSIVs and their pneumatic actuators. The subject test pilot valve was refurbished in 1998 as part of scheduled preventive maintenance on the MSIV pneumatic actuator unit. Again, prior to January 17, 2000, VY had no indication of degradation of the suspected test pilot valve.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The frequency of MSIV testing is not assumed to be an initiator of any analyzed event. This change will not alter the basic operation of process variables, structures, systems, or components as described in the safety analyses. The twice-weekly exercise of MSIVs is not intended to verify the safety function of the MSIVs. The safety function testing will continue to be conducted during the quarterly, full-stroke fast closure MSIV test. However, eliminating unnecessary testing of the MSIVs may reduce the probability of occurrence of an inadvertent valve closure that could lead to a plant transient condition.

Deleting the twice-weekly MSIV test is not considered to have any measurable effect on the reliability of the MSIVs to perform their safety function; therefore, the mitigating function of the MSIVs is maintained. The consequences of accidents previously evaluated will not be affected by this change because the surveillances to test MSIVs in accordance with the IST [inservice testing] program and Section XI of the ASME Code will still be performed, assuring that MSIVs will perform their intended safety function.

Since reactor operation with the deleted surveillance specification is fundamentally unchanged, no design or analytical acceptance criteria will be exceeded. As such, this change does not impact initiators of analyzed events nor assumed mitigation of design basis accident or transient events.

These changes do not affect the initiation of any event, nor do they negatively impact the mitigation of any event. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not affect any parameters or conditions that could contribute to the initiation of an accident. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). No new accident modes are created since the manner in which the plant is operated is fundamentally unchanged. This change to surveillance requirements does not affect the design or function of safety-related equipment, nor does it eliminate testing to verify a safety function. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Testing the MSIVs by full stroke closure on a quarterly basis is adequate to maintain reliability of the MSIVs to perform their safety function. This has been demonstrated through industry operating experience. Since frequency or method of MSIV testing is not specifically considered in any safety analysis, current safety analysis assumptions are being maintained. The reduction in testing from a twice-weekly exercise (partial closure and re-opening) while maintaining the quarterly full-stroke test is adequate to maintain the reliability of this safety function while reducing unnecessary valve wear and the potential for inducing an inadvertent transient. Consequently, margins of safety are maintained.

There is no impact on equipment design or operation, and there are no changes being made to safety limits or safety system settings that would adversely affect plant safety because of the proposed changes. Since the changes have no effect on any safety analysis assumption or initial condition, the margins of safety in the safety analyses are maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 23, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS

Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to

matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037-1128, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 11, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 15th day of February 2000.

For the Nuclear Regulatory Commission.

**Richard P. Croteau,**

*Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## **NUCLEAR REGULATORY COMMISSION**

### **National Materials Program Working Group; Meeting**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of formation of working group and public meeting.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has formed a working group to provide the Commission with options for maintaining the infrastructure of supporting regulations, guidance and other program elements needed for the nationwide materials program considering the anticipated increase in the number of Agreement States. The working group will be composed of representatives from the Organization of Agreement States (OAS), the Conference of Radiation Control Program Directors, Inc. (CRCPD), and the NRC. The working group will produce a report for the Commission's consideration.

**DATES:** The working group's first meeting will be held on March 6-8, 2000, at the NRC Headquarters Office, 11555 Rockville Pike, Rockville, Maryland. To facilitate maximum participation and information sharing the working group's meetings will be announced and open to the public. Future meeting notices will be noticed at the NRC web site, News and Information, Public Meetings, Other Meetings: (<http://www.nrc.gov/NRC/PUBLIC/meet.html#OTHER>).

**ADDRESSES:** Members of the public may submit comments to David L. Meyer, Chief, Rules and Directives Branch, T-6-D59, U. S. Nuclear Regulatory

Commission, Washington, DC 20555-0001. Comments may also be submitted via e-mail at [nrcprep@nrc.gov](mailto:nrcprep@nrc.gov). Comments may be submitted at any time.

Comments received after February 1, 2001 will be considered if practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

To help ensure coordination and sharing of information with the OAS, the CRCPD, and the public, the working group will place information at the Office of State Programs' web site at <http://www.hsrdo.ornl.gov/nrc/home.html>.

### **FOR FURTHER INFORMATION CONTACT:**

James Myers, Project Manager, Office of State Programs, U. S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-415-2328, E-mail: [jhm@nrc.gov](mailto:jhm@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The 31 Agreement States regulate about 70% of the total number of radioactive materials licensees. NRC is forecasting four more Agreement States by FY 2003. This will bring the percentage of licensees regulated by Agreement States to more than 80%. With this increase, NRC and States need to examine options to maintain the infrastructure of supporting regulations, guidance and other program elements, such as event follow-up, information technology sharing and technical support needed for implementation of a nationwide materials program. In addition, current NRC activities in support of the national program infrastructure will have a potentially increased impact on the smaller number of NRC materials licensees in the future.

Additional background information is contained in SECY-99-250, "National Materials Program \* \* \*" dated October 14, 1999 and the Staff Requirements Memorandum (SRM) for SECY-99-250 dated November 23, 1999. (Both documents are available on the Office of State Programs' web site identified earlier in this notice). The Commission has requested that the project be completed by May 1, 2001.

Dated at Rockville, Maryland, this 14th day of February 2000.

For the Nuclear Regulatory Commission.

**Paul H. Lohaus,**

*Director, Office of State Programs.*

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