

- Technology Sub-Committee report
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- Committee Writing Session

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 12, 2001.

**Beth M. McCormick**,  
*Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.*

[FR Doc. 01-9571 Filed 4-17-01; 8:45 am]

BILLING CODE 7510-01-U

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01-046]

### NASA Advisory Council (NAC), Earth Systems Science and Applications Advisory Committee (ESSAAC), Earth Science Data and Information Systems and Services Advisory Subcommittee (ESDISSAS); Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Earth System Science and Applications Advisory Committee, Earth Science Data and Information Systems and Services Advisory Subcommittee.

**DATES:** Thursday, May 10, 2001, 8:30 a.m. to 5:30 p.m.; and Friday, May 11, 2001, 8:30 a.m. to 4:00 p.m.

**ADDRESSES:** NASA Headquarters, 300 E Street SW., Room MIC 5A, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Ms. Martha Maiden, Code YS, National

Aeronautics and Space Administration, Washington, DC 20546, 202/358-1078.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Opening Remarks
- NASA Welcome
- Earth Observing System Data and Information System (EOSDIS): Processes for Management for EOSDIS Evolution
- New Data and Information Systems and Services (NewDISS) Concept Document Recommendations
- New DISS Formulation Progress
- Data Centers of the Distribution Active Archive Center (DAAC) Alliance
- Federation Report
- Points for Comment, Recommendations from Day One
- High End Computing for Earth Science Modeling
- ESDISSAS Recommendations, Wrap-up

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 12, 2001.

**Beth M. McCormick**,  
*Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.*

[FR Doc. 01-9572 Filed 4-17-01; 8:45 am]

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01-044)]

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of prospective patent license.

**SUMMARY:** NASA hereby gives notice that Kelly Manufacturing Company has applied for an exclusive license to practice the invention described in NASA Case No. KSC-12,168-1, entitled "Personal Cabin Pressure Monitor and Warning System," which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Patent Counsel, Assistant Chief Counsel, NASA, Mail Code CC-A, Office of the Chief Counsel, John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

**DATES:** Responses to this notice must be received by June 18, 2001.

**FOR FURTHER INFORMATION CONTACT:** Patent Counsel/Assistant Chief Counsel, NASA, Office of the Chief Counsel, John F. Kennedy Space Center, Mail Code CC-A, Kennedy Space Center, FL 32899, telephone (321) 867-7214.

Dated: April 11, 2001.

**Edward A. Frankle**,  
*General Counsel.*

[FR Doc. 01-9570 Filed 4-17-01; 8:45 am]

BILLING CODE 7510-01-U

## NUCLEAR REGULATORY COMMISSION

### Notice of Acceptance for Docketing of the Application, and Notice of Opportunity for a Hearing, on an Application for Authority To Construct a Mixed Oxide Fuel Fabrication Facility

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Acceptance of Application for Docketing, and Notice of Opportunity for a Hearing.

**SUMMARY:** This notice announces that the NRC has accepted for docketing from Duke Cogema Stone & Webster (DCS) an application for authority to construct a mixed oxide (MOX) fuel fabrication facility. The NRC has accepted the construction authorization request (CAR) for docketing, and, accordingly, is providing this notice of opportunity for hearing on the DCS application.

**DATES:** By May 18, 2001, any person who wishes to participate as a party in an NRC hearing pertaining to the CAR must file a written request for hearing.

**ADDRESSES:** Pursuant to 10 CFR 2.1203(a) and (e), any request for a hearing must be served on the Secretary of the Commission in accordance with the procedures in 10 CFR 2.712, as follows: (1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, between 7:45 a.m. and 4:15 p.m., Federal workdays; or (2) by mail, telegram, or facsimile addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Pursuant to 10 CFR 2.1205(f), written hearing requests must also be delivered, by hand or by mail, to the Office of the General

Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by the above date. A copy of the hearing request must also be sent to Donald J. Silverman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036-5869, attorney for DCS. Nontimely requests for hearing will not be entertained absent a determination by the NRC, the presiding officer, or the Chairman of the Atomic Safety and Licensing Board Panel, that the request for hearing should be granted based upon a balancing of the factors specified in 10 CFR 2.1205(l).

**FOR FURTHER INFORMATION CONTACT:** Andrew Persinko, MOX Project Manager, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-6522, or Tim Johnson, Backup Project Manager, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-7299. Fax number: (301) 415-5390.

**SUPPLEMENTARY INFORMATION:** On February 28, 2001, Duke Cogema Stone & Webster (DCS) submitted to the United States Nuclear Regulatory Commission (NRC) an application for authority to construct a mixed oxide (MOX) fuel fabrication facility, to be located at the United States Department of Energy's Savannah River Site in South Carolina. A notice reflecting the NRC's receipt of the construction authorization request (CAR), and the related environmental report submitted by DCS in December, 2000, was published in the **Federal Register** on March 7, 2001; 66 FR 13794, Duke Cogema Stone & Webster; Notice of Intent To Prepare an Environmental Impact Statement for the Mixed Oxide Fuel Fabrication Facility. Additionally, by letter dated January 29, 2001, DCS submitted to the NRC a quality assurance plan regarding the proposed MOX fuel fabrication facility. The CAR (non-proprietary version), the January 2001 quality assurance plan, and the December 2000 environmental report submitted by DCS are available for review and copying using any of the following methods: (1) enter the NRC's MOX website at <http://www.nrc.gov/NRC/NMSS/MOX/index.html>; (2) enter the NRC's Agency wide Document Access and Management System (ADAMS) at <http://www.nrc.gov/NRC/ADAMS/index.html>, where the accession numbers for the documents are ML010650204 (for the CAR); ML010450042 and ML010450055 (for the quality assurance plan); and ML003780152 (for the environmental report); or (3) contact the NRC's Public Document Room (PDR) by calling (800)

397-4209, faxing a request to (301) 415-3548, or sending a request by electronic mail to [pdr@nrc.gov](mailto:pdr@nrc.gov). Hard copies of the documents are available from the PDR for a fee. Additionally, with respect to the CAR only, non-proprietary copies are available from the PDR in CD-ROM format (a two CD set). Hard copies (of the non-proprietary version) of the CAR are in the process of being placed in public libraries located in: Aiken, SC; Columbia, SC; North Augusta, SC; Charlotte, NC; Raleigh, NC; Augusta, GA; Atlanta, GA; and Savannah, GA.

The NRC is conducting a detailed review of the CAR, the December 2000 environmental report, and the January 2001 quality assurance plan. The results of the NRC's review of these DCS filings will be documented in a safety evaluation report and an environmental impact statement. As stated in the March 7, 2001, **Federal Register** notice, in the summer of 2002 DCS plans to submit a request for authority to operate the MOX facility and that request would be the subject of a separate notice of opportunity for hearing.

The NRC has now accepted the CAR for docketing, and, accordingly, is providing this notice of opportunity for hearing on the DCS application for authority to construct a MOX fuel fabrication facility. In order to approve the CAR, the NRC must find that the design bases of the proposed MOX fuel fabrication facility's principal structures, systems, and components, together with the DCS quality assurance plan, "provide reasonable assurance of protection against natural phenomena and the consequences of potential accidents." 10 CFR 70.23(b). Additionally, to meet the NRC's responsibilities under the National Environmental Policy Act (NEPA), the NRC's environmental review of the proposed licensing action must determine whether "the action called for is the issuance of the proposed license." 10 CFR 70.23(a)(7). If the necessary findings are made and the CAR is approved, construction of the MOX fuel fabrication facility could then begin. In order to authorize operation of a MOX fuel fabrication facility (*i.e.*, by granting a 10 CFR part 70 license), the NRC must find that construction of the facility has been properly completed (*see* 10 CFR 70.23(a)(8)), and that all other applicable 10 CFR part 70 requirements have been met.

Since consideration of the CAR is a necessary first step in a process potentially leading to the issuance of a 10 CFR part 70 materials license, the informal hearing procedures contained in 10 CFR part 2, Subpart L are generally applicable. *See* 10 CFR

2.1201(a)(1). Accordingly, in considering requests for hearing filed pursuant to this notice, and in conducting any adjudicatory hearing on the CAR, the Subpart L hearing procedures will govern except as specified below. To enhance the effectiveness of the adjudicatory process, additional procedures, including the option for oral questioning of expert witnesses by the presiding officer as necessary to supplement the record, will be used in this proceeding, as described below.

As stated above, any person who wishes to participate as a party in an NRC hearing pertaining to the CAR must file a written request for a hearing. Requests for a hearing shall be filed in accordance with the NRC's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2, Subpart L ("Informal Hearing Procedures"). Pursuant to 10 CFR 2.1203(a) and (e), any request for a hearing must be served on the Secretary of the Commission in accordance with the procedures in 10 CFR 2.712, as follows: (1) by delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, between 7:45 a.m. and 4:15 p.m., Federal workdays; or (2) by mail, telegram, or facsimile addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Pursuant to 10 CFR 2.1205(f), written hearing requests must also be delivered, by hand or by mail, to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by the above date. A copy of the hearing request must also be sent to Donald J. Silverman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036-5869, attorney for DCS. Nontimely requests for hearing will not be entertained absent a determination by the NRC, the presiding officer, or the Chairman of the Atomic Safety and Licensing Board Panel, that the request for hearing should be granted based upon a balancing of the factors specified in 10 CFR 2.1205(l).

Interested persons should consult a current copy of 10 CFR 2.1205, which is available at the NRC's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD (or call the PDR at (800) 397-4209 or (301) 415-4737). NRC regulations are also accessible electronically from the NRC's Electronic Reading Room on the NRC Web site, <http://www.nrc.gov>. If a request for hearing is filed by the above

date, the NRC, or a presiding officer designated by the NRC or by the Chairman of the Atomic Safety and Licensing Board Panel, which may include a single administrative judge with or without technical assistants or a three-judge panel, will rule on the request; and the designated presiding officer will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.1205, a hearing request shall set forth with particularity the interest of the requestor in the proceeding, and how that interest may be affected by the results of the proceeding. Here, as an initial matter, any person requesting a hearing on the CAR will have to establish in their request for hearing that their interests could be affected if the CAR is approved, and the MOX fuel fabrication facility is built at the proposed site in South Carolina. This requirement to establish standing is applicable in any NRC adjudicatory proceeding. Those requesting a hearing on the CAR should refer to the provisions stated in 10 CFR 2.1205(e) and 2.1205(h) for further information regarding the requirements to establish standing. Before ruling on other matters, the presiding officer will determine whether petitioners have established standing. Additional information pertaining to any NRC hearing which may be held regarding the DCS request for construction authority is provided below.

#### A. Contentions

Any petitioner who establishes standing to participate would also be required to submit contentions, which the presiding officer would evaluate using the standards set forth in 10 CFR 2.714(b)(2). The Subpart L requirements pertaining to areas of concern (*see, e.g.*, 10 CFR 2.1205(e)(3); and 2.1205(h)) will not be applicable.

Petitioners will be required to submit contentions within 50 days of the date a presiding officer is appointed, and will have the burden of showing that the contentions are admissible. In this regard, contentions are expected to focus on the CAR, the December 2000 environmental report, and/or the January 2001 quality assurance plan submitted by DCS. Petitioners will not be permitted to wait for the NRC staff to issue its safety evaluation report or environmental impact statement before formulating contentions. As indicated above, the CAR available for public review is the non-proprietary version, and does not include information pertaining to safeguards, and other financial and commercial information considered proprietary. Access to the proprietary version of the CAR, for

purposes of submitting any contentions based on withheld information, will be subject to later determination by the presiding officer, after rulings on standing are made.

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. 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. The petitioner must provide sufficient information to show that a genuine dispute exists with DCS on a material issue of law or fact.<sup>1</sup> Contentions shall be limited to matters within the scope of the DCS application for authority to construct a MOX fuel fabrication facility. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file at least one contention which satisfies these requirements will not be permitted to participate as a party.

#### B. Discovery

In the event one or more contentions are admitted, limited discovery (by deposition, interrogatory, or both) from non-NRC sources pertaining to admitted contentions will be permitted. Such discovery would be governed by 10 CFR 2.740a(a)–(i), and 2.740b. Discovery regarding documents should not be necessary, given the inclusiveness of the hearing file requirements of 10 CFR 2.1231(b)–(c). In ruling on any discovery matters, the presiding officer would use the standards of 10 CFR 2.740. Thus, the provisions of 10 CFR 2.1231(d) prohibiting any discovery in 10 CFR part 2, Subpart L proceedings, will not be applicable. Formal discovery against the Staff, pursuant to 10 CFR 2.720(h) and 2.740, will be suspended until after issuance of the required final Safety Evaluation Report (SER) and the Final Environmental Impact Statement (EIS).

<sup>1</sup> “[A]t the contention filing stage[,] the factual support necessary to show that a genuine dispute exists need not be in affidavit or formal evidentiary form and need not be of the quality necessary to withstand a summary disposition motion.” Statement of Policy on Conduct of Adjudicatory Proceedings, CLI-98-12, 48 NRC 18, 22 n.1 (1998) (citing Rules of Practice for Domestic Licensing Proceedings—Procedural Changes in the Hearing Process, Final Rule, 54 Fed. Reg. 33,168, 33,171 (August 11, 1989).

#### C. Written and Oral Presentations

Following discovery on any admitted contentions, and after the final SER and EIS are issued, the parties would simultaneously submit their written presentations, pursuant to 10 CFR 2.1233. Any expert testimony on which a party relies would have to be included as part of the written presentation. The parties would then file simultaneous responses to the written presentations. In submitting written presentations, or responses to written presentations, any party wishing to present expert testimony will be required to do so by affidavit, using a question and answer format in the form of a direct examination. Any party presenting such testimony would be required to make the expert available, in person, for questioning by the presiding officer, as determined necessary by the presiding officer. It is anticipated that the presiding officer may conduct oral presentations to supplement the written hearing record previously developed. The parties will be able to submit to the presiding officer proposed questions to be addressed to the expert witnesses by the presiding officer at the oral presentations.

Dated at Rockville, Maryland, this 12th day of April 2001.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 01-9619 Filed 4-17-01; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-361 and 50-362]

### Southern California Edison Company; Notice of Consideration of Issuance and Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating Licenses No. NPF-10 and NPF-15 issued to the Southern California Edison Company (the licensee) for operation of the San Onofre Nuclear Generating Station (SONGS), Units 2 and 3, respectively, located in San Diego County, California.

The proposed amendment would change the operating license and Technical Specifications for SONGS Units 2 and 3 to reflect an increase in the licensed core power level to 3438 megawatts (thermal), 1.42% greater than the current level.

Before issuance of the proposed license amendment, the Commission