

Environmental Quality, regarding the environmental impact of the proposed action. On August 15, 2002, the staff consulted with the Vermont State official, William Sherman of the Department of Public Service, regarding the environmental impact of the proposed action. The State officials had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 20, 2001, as supplemented by letter dated June 13, 2002. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdrr@nrc.gov.

Dated at Rockville, Maryland, this 28th day of August, 2002.

For the Nuclear Regulatory Commission.

Robert A. Gramm,

Chief, Section 1, Project Directorate IV,
Division of Licensing Project Management,
Office of Nuclear Reactor Regulation.

[FR Doc. 02-22491 Filed 9-3-02; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of September 2, 9, 16, 23, 30, October 7, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of September 2, 2002

Wednesday, September 4, 2002

10:25 a.m.

Affirmation Session (Public Meeting) (Tentative)

- Final Rule: 10 CFR part 63: Specification of a Probability for Unlikely Features, Events, and Processes
- Duke Cogema Stone & Webster (Savannah River Mixed Oxide Fuel Fabrication Facility); Board's Certified Question Regarding Procedure

Week of September 9, 2002—Tentative

There are no meetings scheduled for the Week of September 9, 2002.

Week of September 16, 2002—Tentative

There are no meetings scheduled for the Week of September 16, 2002.

Week of September 23, 2002—Tentative

There are no meetings scheduled for the Week of September 23, 2002.

Week of September 30, 2002—Tentative

Tuesday, October 1, 2002

9:25 a.m.

Affirmation Session (Public Meeting) (If needed)

9:30 a.m.

Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: John Buckley, 301-415-6607)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Wednesday, October 2, 2002

10:00 a.m.

Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2)

Week of October 7, 2002—Tentative

There are no meetings scheduled for the Week of October 7, 2002.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. Contact person for more information: R. Michelle Schroll (301) 415-1662.

The NRC Commission Meeting Schedule can be found on the internet at: <http://www.nrc.gov/what-we-do/policy-making/schedule.html>.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: August 29, 2002.

R. Michelle Schroll,

Acting Technical Coordinator, Office of the Secretary.

[FR Doc. 02-22594 Filed 8-30-02; 11:32 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-423]

Dominion Nuclear Connecticut, Inc.; 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. NPF-49 issued to Dominion Nuclear Connecticut, Inc. (the licensee) for operation of the Millstone Power Station, Unit No. 3 (MP3), located in New London County, Connecticut.

The proposed amendment would revise Technical Specification (TS) Surveillance Requirement (SR) 4.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period would be extended from the current limit of “. . . up to 24 hours” to “. . . up to 24 hours or up to the limit of the specified surveillance interval, whichever is greater.” In addition, the following requirement would be added to SR 4.0.3: “A risk evaluation shall be performed for any surveillance delayed greater than 24 hours and the risk impact shall be managed.”

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process (CLIIP). The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the model NSHC determination for amendments concerning missed surveillances in its application dated July 19, 2002.

The proposed amendment would also make administrative changes to SRs 4.0.1 and 4.0.3 to be consistent with NUREG-1431, Revision 2, “Westinghouse Standard Technical Specifications.” These changes are necessary to make the current MP3 TSs compatible with the proposed CLIIP changes for missed surveillances. The licensee provided its analysis of the issue of NSHC for these proposed changes in its application.

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.

The Commission has made a proposed determination that the amendment request involves NSHC. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), section 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), an analysis of the issue of NSHC is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

[CLIP Changes]

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

[Administrative Changes]

The proposed change involves rewording of the existing Technical Specifications to be consistent with NUREG-1431, Revision 2. These modifications involve no technical changes to the existing Technical Specifications. As such, these changes are administrative in nature and do not affect initiators of analyzed events or assumed mitigation of accident or transient events. Therefore, these changes will not increase the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

[CLIP Changes]

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

[Administrative Changes]

The proposed change involves rewording of the existing Technical Specifications to be consistent with NUREG-1431, Revision 2. The change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The changes will not impose any new or different requirements or eliminate any existing requirements. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

[CLIP Changes]

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the

amendment request, the requested change does not involve a significant hazards consideration.

[Administrative Changes]

The proposed change involves rewording of the existing Technical Specifications to be consistent with NUREG-1431, Revision 2. The changes are administrative in nature and will not involve any technical changes. The changes will not reduce a margin of safety because they have no impact on any safety analysis assumptions. Also, since these changes are administrative in nature, no question of safety is involved. Therefore, there will be no reduction in a margin of safety.

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 NSHC.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 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 30-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 30-day notice period, provided that its final determination is that the amendment involves NSHC. 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 and provide for opportunity for a hearing after 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. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

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

By October 4, 2002, 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 2.714,¹ which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@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

¹ The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: "In all other circumstances, such ruling body or officer shall, in ruling on—

(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things:

- (i) The nature of the petitioner's right under the Act to be made a party to the proceeding.
- (ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.
- (iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

(2) The admissibility of a contention, refuse to admit a contention if:

(i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or

(ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief."

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 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 a hearing is requested, the Commission will make a final determination on the issue of NSHC. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves NSHC, 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 (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov. A copy of the petition for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Rope Ferry Road, Waterford, CT 06385, 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 July 19, 2002, which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 28th day of August, 2002.

For the Nuclear Regulatory Commission.

Victor Nerses,

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

[FR Doc. 02-22490 Filed 9-3-02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 46428]

Order Pursuant to Section 11A of the Securities Exchange Act of 1934 and Rule 11Aa3-2(f) Thereunder Granting a *De Minimis* Exemption for Transactions in Certain Exchange-Traded Funds From the Trade-Through Provisions of the Intermarket Trading System

August 28, 2002.

Rule 11Aa3-2(d),¹ adopted pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act" or "Exchange Act"),² requires each self-regulatory organization ("SRO") to comply with, and enforce compliance by its members and their associated persons with, the terms of any effective national market system plan of which it is a sponsor or participant. Rule 11Aa3-2(f) authorizes the Commission to exempt, either unconditionally or on specified terms and conditions, any SRO, member thereof, or specified

security, from the requirement of this rule if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.³

The Intermarket Trading System ("ITS") is an order routing network designed to facilitate intermarket trading in exchange-listed equity securities among participating SROs based on current quotation information emanating from their markets.⁴ The terms of the linkage are governed by the ITS Plan, a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3-2 thereunder.⁵

Under the ITS Plan, a member of a participating SRO may access the best bid or offer displayed in CQS by another Participant by sending an order (a "commitment to trade") through ITS to that Participant. Exchange members participate in ITS through facilities provided by their respective exchanges. NASD members participate in ITS through a facility of the Nasdaq Stock Market ("Nasdaq") known as the Computer Assisted Execution System ("CAES"). Market makers and electronic communications networks ("ECNs") that are members of the NASD and seek to display their quotes in exchange-listed securities through Nasdaq must register with the NASD as ITS/CAES Market Makers.⁶

Section 8(d)(i) of the ITS Plan provides that:

Absent reasonable justification or excuse, a member located in an Exchange Market, or an ITS/CAES

Market Maker, should not purchase any security that he is permitted to trade through the system at a price that is higher than the price at which that security, at the time of such purchase, is offered in one or more other Participant's Markets that trade the security through ITS as reflected by the offer furnished from such other Participant's Market(s) then being displayed on the trading floor of, or available in the quotation service used by, such member or available in the quotation service used by an ITS/CAES Market Maker.⁷

A similar provision applies with respect to the sale of any such security at a price lower than the price at which the security is bid for in one or more other Participant's markets.⁸ If a trade-through occurs and a complaint is received through ITS from the party whose bid or offer was traded through, the party who initiated the trade-through may be required to satisfy the bid or offer traded through or take other remedial action.⁹

The ITS trade-through provisions were designed both to encourage market participants to display their trading interest—which contributes liquidity to the market—and to help achieve best execution for customer orders in exchange-listed securities. Like ITS itself, however, these rules were designed at a time when the order routing and execution facilities of markets were much slower, intermarket competition less keen, and the minimum quote increment for exchange-listed securities was 1/8 of a dollar (\$0.125).

With the introduction of decimal pricing and technology changes that have enabled vastly reduced execution times, the trade-through provisions of the ITS Plan have increasingly limited the ability of a Participant or ITS/CAES Market Maker to provide an automated execution when a better price is displayed by another Participant that does not offer automated execution. For example, certain electronic systems can offer internal executions in a fraction of a second, whereas ITS participants have, at a minimum, thirty seconds to respond to a commitment to trade. Thus, an ITS Participant seeking to execute a transaction at a price inferior to the price quoted by another ITS Participant must generally either (i)

³ See 17 CFR 240.11Aa3-2(f).

⁴ Quotations in exchange-listed securities are collected and disseminated by the Consolidated Quote System ("CQS"), which is governed by the CQ Plan approved by the Commission under Rule 11Aa3-2.

⁵ See Securities Exchange Act Release No. 19456 (January 27, 1983), 48 FR 4938 (February 3, 1983). The SROs participating in ITS include the American Stock Exchange LLC ("Amex"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), the Chicago Stock Exchange, Inc. ("CHX"), the Cincinnati Stock Exchange, Inc. ("CSE"), the National Association of Securities Dealers, Inc. (the "NASD"), the New York Stock Exchange, Inc. ("NYSE"), the Pacific Exchange, Inc. ("PCX"), and the Philadelphia Stock Exchange, Inc. ("Phlx") ("Participants").

⁶ See Securities Exchange Act Release No. 42536 (March 16, 2000), 65 FR 15401 (March 22, 2000). Market makers and ECNs are required to provide their best-priced quotations and customer limit orders in certain exchange-listed and Nasdaq securities to an SRO for public display under Exchange Act Rule 11Ac1-1 (the "Quote Rule") and Regulation ATS. 17 CFR 240.11Ac1-1(c) and 242.301(b)(3).

⁷ ITS Plan, Section 8(d)(i).

⁸ To implement the intent of Section 8(d)(i), each Participant has adopted and obtained Commission approval of a "trade-through rule" substantially the same as the rule attached as Exhibit B to the ITS Plan. See ITS Plan, Section 8(d)(ii). See also NYSE Rule 15A; NASD Rule 5262.

⁹ See ITS Plan, Exhibit B.

¹ See 17 CFR 240.11Aa3-2(d).

² Pursuant to Section 11A of the Act, the Commission may, by rule or order, "authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under [the Act] in planning, developing, operating, or regulating a national market system." See Section 11A(a)(3)(B) of the Act, 15 U.S.C. 78k-1(a)(3)(B).