

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–263]

Nuclear Management Company, LLC; Monticello Nuclear Generating Plant, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from the requirements of title 10 of the Code of Federal Regulations (10 CFR), part 50, Appendix R, Section III.G.2.b for Facility Operating License No. DPR–22, issued to Nuclear Management Company, LLC (NMC), for operation of the Monticello Nuclear Generating Plant (MNGP), located in Wright County, Minnesota. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would authorize a permanent exemption from the requirements of 10 CFR part 50, Appendix R, Section III.G.2.b, as it applies to Fire Area IX/Fire Zone 23A, the intake structure pump room at MNGP. The proposed action is in accordance with NMC's exemption request of November 17, 2003, as supplemented July 16, 2004.

The Need for the Proposed Action

NMC requested this exemption from the requirement to separate cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. NMC indicated that although redundant safe shutdown components and cables within this fire zone are separated by more than 20 feet, permanent intervening combustibles or fire hazards exist within the separating space.

Environmental Impacts of the Proposed Action

The NRC staff reviewed NMC's exemption request and will issue a safety evaluation documenting its review. The NRC staff analyzed the following items in the intake structure pump room at MNGP to satisfy the requirements of 10 CFR 50.12 for granting the exemption from the automatic suppression system requirements of Appendix R, Section III.G.2.b:

- Safe shutdown equipment.
- Fixed and transient combustibles.

- Chemical hazards.
- Existing fire protection features.
- Intervening combustibles.
- Impact of Regulatory Issue

Summary 2004–03, "Risk-Informed Approach for Post-Fire Safe-Shutdown Associated Circuit Inspections," dated March 2, 2004.

The following attributes of the intake structure pump room at MNGP supported the NRC staff's basis for approval of the requested exemption:

- Greater than 20 feet of separation exists between redundant safe shutdown components and cables.
- Early-warning ionization detection, installed above the residual heat removal service water (SW) and SW pumps, provides an alarm to the control room.
- Activation of the pre-action valve via the thermal detectors results in a "system actuated" signal to the control room.
- Transient combustibles and hot work in the area are administratively controlled.
- The fire load in the zone satisfies the criteria for a low fire load designation.

The NRC staff concluded that the requested exemption for Fire Area IX/Fire Zone 23A provided reasonable assurance that one train of redundant safe shutdown equipment would remain free of fire damage. This is the equivalent of meeting the requirements of 10 CFR part 50, Appendix R, Section III.G.2.b, since the underlying purpose of Section III.G.2.b is to assure that one train of redundant safe shutdown equipment will be maintained free of fire damage.

The details of the NRC staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to NMC approving the exemption to the regulation.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in the amount of effluent being released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for Monticello dated November 1972.

Agencies and Persons Consulted

On October 15, 2004, the staff consulted with the Minnesota State official, Nancy Campbell of the Department of Commerce, regarding the environmental impact of the proposed action. The State official 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 NMC's exemption request of November 17, 2003, as supplemented July 16, 2004. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 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 pdrc@nrc.gov.

Dated at Rockville, Maryland, this 13th day of October 2004.

For the Nuclear Regulatory Commission.

L. Raghavan,

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

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**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 34-50552; File No. SR-Amex-
2004-25]

**Self-Regulatory Organizations; Notice
of Filing of a Proposed Rule Change
and Amendments No. 1 and No. 2
Thereby by the American Stock
Exchange LLC Relating to Revisions to
Amex Rule 111**

October 15, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 28, 2004, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared by the Exchange. On May 10, 2004, the Exchange submitted Amendment No. 1 to the proposed rule change.³ On June 8, 2004, the Exchange submitted Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

**I. Self-Regulatory Organization's
Statement of the Terms of Substance of
the Proposed Rule Change**

The Exchange proposes to amend Amex Rule 111. The text of the proposed rule change appears below. Proposed new language is in *italics*.

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Bill Floyd-Jones, Counsel, Exchange, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 7, 2004 ("Amendment No. 1"). In Amendment No. 1, the Exchange clarified the proposed rule language, and provided additional explanation in the purpose section of the proposed rule change.

⁴ See Letter from Bill Floyd-Jones, Counsel, Exchange, to Nancy Sanow, Assistant Director, Division, Commission, dated June 7, 2004 ("Amendment No. 2"). In Amendment No. 2, the Exchange added a definition of "bona fide hedge" to the text of the proposed rule change. In Amendment No. 2, the Exchange also reprinted pages 33-35 of Securities Exchange Act Release No. 15533 (January 29, 1979) as proposed Commentary .13 to the text of the proposed rule change.

Restrictions on Registered Traders

Rule 111. (a) Registered Traders who wish to initiate purchases or sales while on the Floor for accounts in which they have an interest shall not:

- (1) Congregate in a particular stock; or
- (2) Individually or as a group, intentionally or unintentionally, dominate the market in a particular stock; or
- (3) Effect such purchases or sales except in a reasonable and orderly manner; or
- (4) Be conspicuous in the general market or in the market in a particular stock.

(b) No Registered Trader shall effect, on the Floor of the Exchange, for an account in which he has an interest, "long" purchases of stock above the previous day's closing price on "plus" or "zero plus" ticks, except for "zero plus" tick purchases on the bid.

(c) No Registered Trader shall effect, on the Floor of the Exchange, a transaction for an account in which he has an interest and execute as broker an off-Floor order in the same stock during the same trading session.

(d) No Registered Trader shall, in establishing or increasing a position for an account in which he has an interest, while on the Floor of the Exchange, retain priority over an off-Floor order.

(e) Registered Traders shall meet the following stabilization tests, to be computed on a monthly basis:

- (1) 75 percent measured by the tick test on the acquisition side.
- (2) 75 percent measured by the tick test on the liquidation side except where the liquidating transaction is at a loss of not less than the minimum price variation calculated on a "first in, first out" (FIFO) basis. Transactions, which are non-stabilizing, effected at such a loss, will not be counted in computing the stabilizing percentage.

(3) Under the tick test, purchases on "minus" and "zero minus" ticks and sales on "plus" and "zero plus" ticks are stabilizing.

(f) The provisions of the foregoing paragraphs of this Rule and of Rule 110 shall not apply to:

- (1) Any transaction by a registered specialist in a security in which he is so registered; or
- (2) Any transaction for the account of an odd-lot dealer in a security in which he is so registered; or
- (3) Any stabilizing transaction effected in compliance with Rule 10b-7 under the Securities Exchange Act of 1934 to facilitate a distribution of a security in which a member is participating; or
- (4) Any bona fide arbitrage transaction; or

(5) Any transaction, other than a transaction for an account in which a Registered Trader has an interest, made with the prior approval of a Floor Official to permit a member to contribute to the maintenance of a fair and orderly market in a security, or any purchase or sale to reverse any such transaction; or

(6) Any transaction to offset a transaction made in error.

(g) Members may initiate transactions in bonds while on the Floor, and the provisions of Rule 110 and of paragraphs (a) through (e) of this Rule shall not apply to such transactions.

(h) Specialists registered in rights may, while on the Floor, initiate transactions in a security which is the subject of the rights for the purpose of acquiring or liquidating a bona fide hedge position against the rights, and the provisions of Rule 110 and of paragraphs (a) through (e) of this Rule shall not apply to such transactions.

(i) Subject to Rule 175, equity specialists may, while on the Floor, initiate transactions in any security underlying a security in which they are registered for the purpose of acquiring or liquidating a bona fide hedge position, and the provisions of Rules 110 and 111(a) through (e) (as made applicable to options by Rule 950(a) and (c)) and Rule 958 shall not apply to such transactions. Option specialists may, while on the Floor, initiate transactions in any security underlying a security in which they are registered for the purpose of acquiring or liquidating a bona fide hedge position, and the provisions of Rule 110 and of paragraphs (a) through (e) of this Rule shall not apply to such transactions. Registered Options Traders may, while on the Floor, initiate transactions in any security underlying a security in which they are acting as a market maker pursuant to Rule 958 for the purpose of acquiring or liquidating a bona fide hedge position, and the provisions of Rule 110 and of paragraphs (a) through (e) of this Rule shall not apply to such transactions. The term "bona fide hedge" shall have the meaning ascribed to it in Securities Exchange Act Rule 11a1-3(T) and pages 33-35 of Securities Exchange Act Release No. 15533 (January 29, 1979). Pages 33-35 of Securities Exchange Act Release No. 15533 are reprinted in Commentary .13 to this Rule.

* * * Commentary

.01-.12—no change.

.13 The following is a reprint of pages 33 through 35 of Securities Exchange Act Release No. 15533 (January 29, 1979):