

to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:*

DOE/NRC Form 741, Nuclear Material Transaction Report; DOE/NRC Form 740M, Concise Note; and NUREG/BR-0006, Revision 6, Instructions for Completing Nuclear Material Transaction Reports (DOE/NRC Forms 741 and 740M).

3. *The form number if applicable:*

DOE/NRC Form 741: 3150-0003.

DOE/NRC Form 740M: 3150-0057.

4. *How often the collection is required:*

DOE/NRC Form 741: As occasioned by special nuclear material or source material transfers, receipts, or inventory changes that meet certain criteria. Licensees range from not submitting any forms to submitting over 5,000 forms annually.

DOE/NRC Form 740M: As necessary to inform the U.S. or the International Atomic Energy Agency (IAEA) of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the US/IAEA Safeguards Agreement. On average, 15 licensees submit about 10 forms each per year—150 forms annually.

5. *Who will be required or asked to report:* Persons licensed to possess specified quantities of special nuclear material or source material, and licensees of facilities on the U.S. eligible list who have been notified in writing by the Commission that they are subject to part 75.

6. *An estimate of the number of responses:*

DOE/NRC Forms 741: 36,650.

DOE/NRC Form 740M: 150.

7. *An estimate of the number of annual respondents:*

DOE/NRC Forms 741: 400.

DOE/NRC Form 740M: 15.

8. *The number of hours needed annually to complete the requirement or request:*

DOE/NRC Form 741: 45,813 hours for NRC and Agreement State licensees (or an average of 1.25 hours per response); DOE/NRC Form 740M: 113 hours (or an average of .75 hours per response).

9. *An indication of whether section 3507(d), Pub. L. 104-13 applies:* NA.

10. *Abstract:* NRC and Agreement State licensees are required to make inventory and accounting reports on DOE/NRC Forms 741 for certain source or special nuclear material, or for transfer or receipt of 1 kilogram or more of source material. Licensees affected by

part 75 and related sections of parts 40, 50, 70, and 150 are required to submit DOE/NRC Form 740M to inform the U.S. or the IAEA of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the US/IAEA Safeguards Agreement. The use of Forms 740M and 741, together with NUREG/BR-0006, Revision 6, the instructions for completing the forms, enables NRC to collect, retrieve, analyze as necessary, and submit the data to IAEA to fulfill its reporting responsibilities.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by April 18, 2005. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

John Asalone, Office of Information and Regulatory Affairs (3150-0003; -0057), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to [John\\_A.\\_Asalone@ombeop.gov](mailto:John_A._Asalone@ombeop.gov) or submitted by telephone at (202) 395-3087.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415-7233.

Dated in Rockville, Maryland, this 10th day of March, 2005.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. 05-5278 Filed 3-16-05; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 50-325 and 50-324]**

### **Carolina Power & Light Company; Brunswick Steam Electric Plant, Units 1 and 2 Exemption**

#### **1.0 Background**

The Carolina Power & Light Company (CP&L, the licensee) is the holder of

Facility Operating Licenses Nos. DPR-71 and DPR-62, which authorize operation of the Brunswick Steam Electric Plant (BSEP), Units 1 and 2. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two boiling-water reactors located in Brunswick County in North Carolina.

#### **2.0 Request/Action**

Title 10 of the Code of Federal Regulations (10 CFR), Section 50.54(o) requires that primary reactor containments for water-cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J specifies the leakage test requirements, schedules, and acceptance criteria for tests of the leaktight integrity of the primary reactor containment and systems and components that penetrate the containment. Appendix J, Option B, Section III.A requires that the overall integrated leak rate must not exceed the allowable leakage (La) with margin, as specified in the Technical Specifications (TS). The overall integrated leak rate, as specified in the 10 CFR Part 50, Appendix J definitions, includes the contribution from main steam isolation valve (MSIV) leakage. By letter dated October 6, 2004, the licensee has requested exemption from Option B, Section III.A requirements to permit exclusion of MSIV leakage from the overall integrated leak rate test measurement.

Option B, Section III.B of 10 CFR Part 50, Appendix J requires that the sum of the leakage rates of all Type B and Type C local leak rate tests be less than the performance criterion (La) with margin, as specified in the TS.

On May 30, 2002, the NRC issued Amendment Nos. 221 and 246 to the Facility Operating Licenses for BSEP, Units 1 and 2, respectively. These amendments revised the TS to replace the accident source term used in loss-of-coolant accident (LOCA), main steamline break (MSLB) accident, and control rod drop accident (CRDA) design-basis analyses with an alternate source term (AST) in accordance with 10 CFR 50.67, "Accident Source Term." On March 14, 2002, the NRC issued Amendment Nos. 218 and 244 for BSEP, Units 1 and 2, respectively, revising the facility TS to replace the accident source term used in the fuel handling accident (FHA) design-basis accident analyses with an AST in accordance with 10 CFR 50.67. In the previous

design-basis accident radiological consequence analyses, MSIV leakage was added to the overall containment integrated leakage rate, as measured by the Type A test specified in 10 CFR 50, Appendix J, Option B. By Amendment Nos. 181 and 213 issued on February 1, 1996, for BSEP Units 1 and 2, respectively, the licensee was authorized to use the Option B provisions of 10 CFR Part 50, Appendix J.

Based on the Safety Evaluation supporting Amendment Nos. 221 and 246 issued on May 30, 2002, the NRC has accepted that MSIV leakage for design-basis accident analyses has been accounted for separately from the overall leakage associated with the primary containment boundary and overall doses meet appropriate regulatory limits. As such, the requirement of 10 CFR 50, Appendix J, Option B, Section III.A that MSIV leakage be included as part of the Type A test results is not necessary to achieve the underlying purpose of the rule; that is, ensuring the actual radiological consequences of design-basis accidents remain below those analyzed as demonstrated through the measured containment leakage test.

### 3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security, and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR Part 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. \* \* \*"

The underlying purpose of the rule that implements Appendix J (*i.e.*, 10 CFR 50.54(o)) is to assure that containment leaktight integrity is maintained (a) as tight as reasonably achievable, and (b) sufficiently tight so as to limit effluent release to values bounded by the analyses of radiological consequences of design-basis accidents. The revised design-basis radiological consequences analyses address these pathways as individual factors, exclusive of the primary containment leakage. The staff has determined that the intent of the rule is not compromised by the proposed action, and that 10 CFR 50.12(a)(2)(ii) applies.

### 4.0 Conclusion

Accordingly, the Commission has determined that pursuant to 10 CFR Part 50.12(a)(1), an exemption is authorized by law and will not present an undue risk to the public health and safety, is consistent with the common defense and security, and that there are special circumstances present, as specified in 10 CFR 50.12(a)(2). An exemption is hereby granted to CP&L, BSEP Units 1 and 2 from the requirements of Sections III.A and III.B of Option B of Appendix J to 10 CFR Part 50. The exemption allows exclusion of MSIV leakage from the overall integrated leak rate test measurement.

Based on the foregoing, the separation of the main steam pathways from the other containment leakage pathways is warranted because a separate radiological consequence term has been provided for these pathways. The revised design-basis radiological consequences analyses address these pathways as individual factors, exclusive of the primary containment leakage. Therefore, the NRC staff finds the proposed exemption from Appendix J, to separate MSIV leakage from other containment leakage, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (70 FR 11034).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 9th day of March 2005.

**Ledyard B. Marsh,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 05-5276 Filed 3-16-05; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271; License No. DPR-28]

### Entergy Nuclear Operations, Inc. Vermont Yankee Nuclear Power Station; Notice of Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC) has issued a Director's Decision on an April 23, 2004, petition by the New England Coalition, hereinafter referred to as the "Petitioner." The petition was supplemented on September 10, 2004.

The petition concerns the operation of the Vermont Yankee Nuclear Power Station (Vermont Yankee).

The basis for the April 23, 2004, petition, was the absence of two pieces of fuel rods in the spent fuel pool (SFP) at Vermont Yankee from their documented location. The Petitioner stated that Entergy Nuclear Operations, Inc. (Entergy or the licensee) had lost control of the spent fuel inventory at Vermont Yankee. The Petitioner would have no confidence that Entergy did not put leaking fuel rods or suspected leaking fuel assemblies back into the reactor core during the April 2004 refueling outage until Entergy accounted for all special nuclear material (SNM). The New England Coalition contends that operation with leaking fuel in the reactor core would be potentially unsafe and in violation of Federal regulations.

On May 5 and September 22, 2004, the Petitioner and the licensee met with the staff's Petition Review Board (PRB). These meetings gave the Petitioner and the licensee an opportunity to provide additional information and to clarify issues raised in the petition.

The NRC sent a copy of the proposed Director's Decision to the Petitioner and to the licensee for comment on December 27, 2004. The Petitioner responded with comments on January 25, 2005. The comments and the NRC staff's responses are included in the Director's Decision. The staff did not receive any comments from the licensee.

The Director of the Office of Nuclear Reactor Regulation denies the Petitioner's request that the NRC make Entergy do an accurate and NRC-verified inventory of the location, disposition, and condition of all irradiated fuel, including fuel currently loaded in the reactor, and order Entergy to halt all fuel movement at Vermont Yankee until the inventory is completed. The reasons for this decision are explained in the Director's Decision pursuant to Title 10 of Code of Federal Regulations (10 CFR), Section 2.206 (DD-05-01), the complete text of which is available in ADAMS for inspection at the Commission's Public Document Room at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component of the NRC's Web site, <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room).

The Petitioner's request that all fuel movement be stopped is moot. All fuel movement for the April 2004 refueling outage had been completed before the NRC received the petition. The licensee has completed a documented inventory to confirm the total number of fuel