

designed, fabricated, erected, and tested to quality standards commensurate with the importance of the safety function to be performed. Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to 10 CFR part 50 requires that measures be established to ensure materials control and control of special processes such as welding and that proper testing be performed. This guide describes an acceptable method of implementing these requirements with regard to the control of weld properties when fabricating electroslag welds for nuclear components made of ferritic or austenitic materials. This guide applies to light-water reactors.

## II. Further Information

The NRC staff is soliciting comments on DG-1223. Comments may be accompanied by relevant information or supporting data and should mention DG-1223 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

Personal information will not be removed from your comments. You may submit comments by any of the following methods:

1. *Mail comments to:* Rulemaking and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

2. *Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2009-0274]. Address questions about NRC dockets to Carol Gallagher, 301-492-3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

3. *Fax comments to:* Rulemaking and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 492-3446.

Requests for technical information about DG-1223 may be directed to the NRC contact, Jeffrey Hixon at (301) 251-7639 or e-mail to [Jeffrey.Hixon@nrc.gov](mailto:Jeffrey.Hixon@nrc.gov).

Comments would be most helpful if received by August 31, 2009. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG-1223 are available through the NRC's public Web site under Draft Regulatory Guides in

the "Regulatory Guides" collection of the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/doc-collections/>. Electronic copies are also available in ADAMS (<http://www.nrc.gov/reading-rm/adams.html>), under Accession No. ML090750626.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4205, by fax at (301) 415-3548, and by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

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Dated at Rockville, Maryland, this 25th day of June, 2009.

For the Nuclear Regulatory Commission.

**Mark P. Orr,**

*Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. E9-15784 Filed 7-2-09; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 70-36; NRC-2009-0278]

### Notice of License Amendment Request of Westinghouse Electric Company LLC for Hematite Decommissioning Project, Festus, MO and Opportunity To Request a Hearing

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of license amendment request and opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by September 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** John J. Hayes, Project Manager, Materials Decommissioning Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Two White Flint North, Mail Stop T8F5, 11545 Rockville Pike, Rockville, Maryland 20852-2738 Telephone: (301) 415-5928; fax number: (301) 415-5928; e-mail: [john.hayes@nrc.gov](mailto:john.hayes@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

By letter dated May 21, 2009, the U.S. Nuclear Regulatory Commission (NRC)

received a license amendment application from Westinghouse Electric Company LLC (WEC or the licensee), pertaining to its planned disposal of NRC-licensed source, byproduct and special nuclear material. Regarding this material, WEC seeks approval, pursuant to 10 CFR 20.2002, of proposed disposal procedures which are not otherwise authorized by NRC regulations. WEC holds NRC License No. SNM-00033, which authorizes the licensee to conduct decommissioning activities at its former fuel cycle facility located in Festus, Missouri. The amendment request seeks authorization allowing WEC to transfer decommissioning waste to U.S. Ecology Idaho, Inc., a Resource Conservation and Recovery Act (RCRA) Subtitle C disposal facility located near Grand View, Idaho. This facility is regulated by the Idaho Department of Environmental Quality, and is not an NRC-licensed facility. Pursuant to 10 CFR 30.11 and 70.17, WEC's application also requested exemptions from the licensing requirements of 10 CFR 30.3 and 70.3 for the byproduct and special nuclear material it seeks to transfer. These exemptions are necessary because the disposal of byproduct and special nuclear material must occur at a facility licensed to possess such material, and the U.S. Ecology Idaho facility has no NRC license.

An NRC administrative review, documented in a letter to Westinghouse dated June 19, 2009, found the alternate disposal application acceptable to begin a technical review. If the NRC approves the Westinghouse request, the approval will be documented in an amendment to NRC License No. SNM-00033. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and the National Environmental Policy Act. These findings will be documented, respectively, in a Safety Evaluation Report (SER), and in a separate environmental assessment performed by the NRC.

#### III. Opportunity To Request a Hearing

The NRC hereby provides notice that this is a proceeding on an application for a license amendment as described above. In accordance with the general requirements in Subpart C of 10 CFR Part 2, as amended on January 14, 2004 (69 FR 2182), any person whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for a hearing and a specification of the contentions which the person seeks to have litigated in the hearing.

*In accordance with 10 CFR 2.302(a), a request for a hearing must be filed with the Commission either by:*

1. First class mail addressed to: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications;

2. Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemakings and Adjudications Staff, between 7:45 a.m. and 4:15 p.m., Federal workdays;

3. E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov*; or

4. By facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff, at (301) 415-1101; verification number is (301) 415-1966.

In accordance with 10 CFR 2.302(b), all documents offered for filing must be accompanied by proof of service on all parties to the proceeding or their attorneys of record as required by law or by rule or order of the Commission, including:

1. The applicant, Westinghouse Electric Company, LLC, 4350 Northern Pike, Monroeville, Pennsylvania 15146-2886, Attention: Michele M. Gutman, and

2. The NRC staff, by delivery to the Office of the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Hearing requests should also be transmitted to the Office of the General Counsel, either by means of facsimile transmission to (301) 415-3725, or by e-mail to *ogcmailcenter@nrc.gov*.

The formal requirements for documents contained in 10 CFR 2.304(b), (c), (d), and (e), must be met. In accordance with 10 CFR 2.304(f), a document filed by electronic mail or facsimile transmission need not comply with the formal requirements of 10 CFR 2.304(b), (c), and (d), as long as an original and two (2) copies otherwise complying with all of the requirements of 10 CFR 2.304(b), (c), and (d) are mailed within two (2) days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.309 (b), a request for a hearing must be filed by September 4, 2009.

*In addition to meeting other applicable requirements of 10 CFR 2.309, the general requirements involving a request for a hearing filed by a person other than an applicant must state:*

1. The name, address, and telephone number of the requester;

2. The nature of the requester's right under the Act to be made a party to the proceeding;

3. The nature and extent of the requester's property, financial or other interest in the proceeding;

4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and

5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. *For each contention, the request or petition must:*

1. Provide a specific statement of the issue of law or fact to be raised or controverted;

2. Provide a brief explanation of the basis for the contention;

3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;

4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;

5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and

6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, or other supporting

document filed by the licensee, or otherwise available to the petitioner. The requester/petitioner may amend its contentions or file new contentions if there are data or conclusions in the NRC's SER or environmental analysis that differ significantly from the data or conclusions in the licensee's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so in writing within 10 days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

#### IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are: Request for Alternate Disposal Approval and Exemption for Specific Hematite Project Waste (ML 090180071); and Review Acceptance Letter to Westinghouse on 20.2002 Alternate Disposal Request for Hematite (ML091690253). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to *pdr.resource@nrc.gov*.

These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The PDR reproduction

contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 26th day of June 2009.

For the Nuclear Regulatory Commission.

**Rebecca Tadesse,**

*Chief, Materials Decommissioning Branch, Decommissioning and Uranium Recovery, Licensing Directorate, Division of Waste Management, and Environmental Protection, Office of Federal and State Materials, and Environmental Management Programs.*

[FR Doc. E9-15790 Filed 7-2-09; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[NRC-2008-0637]

### Notice of Availability of Technical Specification Improvement To Relocate Surveillance Frequencies to Licensee Control—Risk-Informed Technical Specification Task Force (RITSTF) Initiative 5b, Technical Specification Task Force—425, Revision 3

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Availability.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has prepared a model license amendment request (LAR), model safety evaluation (SE), and model no significant hazards consideration (NSHC) determination. These are related to changes to standard technical specifications (STS) for Technical Specification Task Force (TSTF)—425, Revision 3, “Relocate Surveillance Frequencies to Licensee Control—RITSTF Initiative 5b,” (Agencywide Documents Access Management System (ADAMS) Accession No. ML090850642). The purpose of these models is to permit the NRC to efficiently process amendments that propose to relocate technical specifications (TS) surveillance frequencies. Licensees of nuclear power reactors could then request amendments, confirming the applicability of the safety evaluation and NSHC determination to their reactors. Previously, on December 5, 2008, drafts of the model SE, model NSHC determination, and model LAR were published in the **Federal Register** for public comment (73 FR 74202–74210). Based on its evaluation of the public comments received in response to that notice, the NRC staff made appropriate changes to the models, and is including the final versions of the models in this notice. This notice also contains a description of each public

comment and its disposition by the NRC staff. Based on its evaluation of the public comments, the NRC staff has decided to announce the availability of the model SE and model NSHC determination to licensees for referencing in LARs to adopt TSTF—425, Rev 3. Licensees of nuclear power reactors proposing to adopt these changes should follow the guidance in the model LAR and confirm the applicability of the model SE and model NSHC determination to their reactors.

**DATES:** The NRC staff hereby announces that the attached model SE and model NSHC determination (which differ only slightly from the versions previously published) may be used in support of plant specific applications to adopt the relocation of TS Surveillance Requirements. The staff has also posted the model LAR (which also differs only slightly from the versions previously published) to assist licensees in applying for the proposed TS change. The NRC staff can most efficiently consider applications based upon the model application if the application is submitted within a year of this **Federal Register** Notice.

**FOR FURTHER INFORMATION CONTACT:** Michelle Honcharik, Mail Stop: O-12E1, Special Projects Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-415-1774.

#### SUPPLEMENTARY INFORMATION:

##### Background

This notice makes available for adoption by licensees a change to the STS that modifies surveillance frequencies. Licensees opting to apply for this change are responsible for reviewing the staff’s evaluation, providing the applicable technical justifications, and providing any necessary plant-specific information. The NRC will process each amendment application responding to the notice of availability according to applicable NRC rules and procedures.

TSTF—425, Rev. 3 involves the relocation of most time-based surveillance frequencies to a licensee-controlled program, called the Surveillance Frequency Control Program (SFCP), and adds the SFCP to the administrative controls section of TS. The SFCP does not include surveillance frequencies that are event driven, controlled by an existing program, or are condition-based.

Revision 3 of TSTF—425 addresses all four reactor vendor types. The owners groups participants proposed this

change for incorporation into the STS. TSTF—425, Rev. 3 (ADAMS Accession No. ML090850642), can be viewed on the NRC’s Web page at: <http://www.nrc.gov/reading-rm/adams.html>.

#### Applicability

TSTF—425, Rev. 3, is applicable to all STS for nuclear power reactors and requires the application of the Nuclear Energy Institute (NEI) 04–10, Rev.1, “Risk-informed Technical Specifications Initiative 5B, Risk-Informed Method for Control of Surveillance Frequencies,” (ADAMS Accession No. ML071360456). The NRC staff reviewed and approved NEI 04–10, Rev. 1, by letter dated September 19, 2007 (ADAMS Accession No. ML072570267). Each licensee applying for the changes proposed in TSTF—425 will need to include documentation regarding the probabilistic risk assessment [PRA] technical adequacy consistent with the guidance in Section 4.2 of Regulatory Guide (RG) 1.200, “An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment [PRA] Results for Risk-Informed Activities” (ADAMS Accession No. ML070240001). Applicants proposing to use PRA models for which NRC-endorsed standards do not exist must submit documentation that identifies characteristics of those models. Sections 1.2 and 1.3 of RG 1.200 provides guidance on the supporting information needed for new methods. Applicants must give supporting evidence for methods to be applied for assessing the risk contribution for those sources of risk not addressed by NRC endorsed PRA models.

The proposed change to adopt TSTF—425 does not prevent licensees from requesting an alternate approach or proposing changes other than those proposed in TSTF—425, Rev. 3. Significant deviations from the approach recommended in this notice, or inclusion of additional changes to the license, however, require additional review by the NRC staff. This may increase the time and resources needed for the review or result in staff rejection of the LAR. Licensees desiring significant deviations or additional changes should instead submit a license amendment request that does not claim to adopt TSTF—425, Rev 3.

#### *Evaluation of Public Comments on the Model Safety Evaluation*

The NRC staff evaluated the public comments received on the model SE, model NSHC determination, and model LAR published in the **Federal Register** on December 5, 2008 (73 FR 74202–