

our procedures, an NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard, regardless of whether it is currently recognized for the proprietary or ANSI version. Contact ANSI or the ANSI web site (<http://www.ansi.org>) and click "NSSN" to find out whether or not a test standard is currently ANSI-approved.

#### Expansion of Recognition

OSHA limits the expansion to testing and certification of products for demonstration of conformance to the following two test standards, and, as indicated above, OSHA has determined the standards are "appropriate."

UL 924 Emergency Lighting and Power Equipment

UL 1008 Transfer Switch

#### Conditions

MET Laboratories, Inc., must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA must be allowed access to the MET facility and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If MET has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the organization that developed the test standard of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

MET must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, MET agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

MET must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

MET will continue to meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition; and MET will continue to meet the requirements for recognition in all areas where it has been recognized.

Signed at Washington, DC this 14th day of May, 2002.

**John L. Henshaw,**  
*Assistant Secretary.*

[FR Doc. 02-12957 Filed 5-22-02; 8:45 am]

**BILLING CODE 4510-26-P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[V-02-1]

#### American Boiler and Chimney Co. and Oak Park Chimney Corp.; Application for Permanent Variance

**AGENCY:** Occupational Safety and Health Administration, Department of Labor.

**ACTION:** Notice of an application for a permanent variance; request for comment.

**SUMMARY:** The American Boiler and Chimney Co. and Oak Park Chimney Corp. are applying for a permanent variance from the Occupational Safety and Health Administration (i.e., "OSHA" or "the Agency") provision that regulates the tackle used for boatswain's chairs (§ 1926.452 (o)(3)), as well as the requirements specified for personnel hoists by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552. The variance application covers the use of boatswain's chairs in chimney construction work.

**DATES:** Submit written comments and requests for a hearing by June 24, 2002.

**ADDRESSES:** Submit comments in quadruplicate, or one hard copy and one diskette (3-1/2 inches) in a Word, WordPerfect, or ASCII format, to: Docket Office, Docket No. S-778-A, Room N-2634, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2350. Submit any information not contained on a disk (e.g., studies, articles) in quadruplicate to the Docket Office. Commenters may transmit written comments of 10 pages or less by fax to (202) 693-1698, provided they send an original and three copies of these comments to the Docket Office by the submission date.

Send requests for a hearing to Ms. Veneta Chatmon, Office of Information and Consumer Affairs, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1999.

**FOR FURTHER INFORMATION:** For general information and press inquiries, contact Ms. Bonnie Friedman, Office of Information and Consumer Affairs,

Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1999. Make technical inquiries to Mr. Mike Turner, Acting Director, Office of Technical Programs and Coordination Activities, Room N-3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2110; fax (202) 693-1644. You can obtain additional copies of this **Federal Register** notice from the Office of Publications, Room N-3101, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210; telephone (202) 693-1888. For electronic copies of this notice contact OSHA on the Internet at <http://www.osha.gov>, and select "Federal Register," "Date of Publication," and then "2002."

Information about this variance application is also available from the following OSHA Regional Offices:

U.S. Department of Labor, OSHA, JFK Federal Building, Room E340, Boston, MA 02203, Telephone: (617) 565-9860, Fax: (617) 565-9827.

U.S. Department of Labor, OSHA, 201 Varick St., Room 670, New York, NY 10014, Telephone: (212) 337-2378, Fax: (212) 337-2371.

U.S. Department of Labor, OSHA, The Curtis Center, Suite 740 West, 170 South Independence Mall West, Philadelphia, PA 19106, Telephone: (215) 861-4900, Fax: (215) 861-4904.

U.S. Department of Labor, OSHA, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303, Telephone: (404) 562-2300, Fax: (404) 562-2295.

U.S. Department of Labor, OSHA, 230 South Dearborn St., Room 3244, Chicago, IL 60604, Telephone: (312) 353-2220, Fax: (312) 353-7774.

U.S. Department of Labor, OSHA, 525 Griffin St., Room 602, Dallas, TX 75202, Telephone: (214) 767-4731, Fax: (214) 767-4137.

U.S. Department of Labor, OSHA, City Center Square, 1100 Main St., Suite 800, Kansas City, MO 64105, Telephone: (816) 426-5861, Fax: (816) 426-2750.

U.S. Department of Labor, OSHA, 1999 Broadway, Suite 1690, Denver, CO 80201, Telephone: (303) 844-1600, Fax: (303) 844-1616.

U.S. Department of Labor, OSHA, 71 Stevenson St., Room 420, San Francisco, CA 94105, Telephone: (415) 975-4310, Fax: (415) 975-4319.

U.S. Department of Labor, OSHA, 1111 Third Ave., Suite 715, Seattle, WA 98101, Telephone: (206) 553-5930, Fax: (206) 553-6499.



## Notice of Application

The following companies (i.e., "applicants") submitted requests for a permanent variance under Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and 29 CFR 1905.11: American Boiler and Chimney Co., 3401 Grand Ave., Neville Island, Pennsylvania; and Oak Park Chimney Corp., 1800 Des Plaines Ave., Forest Park, Illinois 60130. The applicants seek a permanent variance from § 1926.452(o)(3), which provides the tackle requirements for boatswain's chairs. The applicants also request a variance from paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552. These latter paragraphs specify the following requirements:

- (c)(1)—Construction requirements for hoist towers outside a structure.
- (c)(2)—Construction requirements for hoist towers inside a structure.
- (c)(3)—Anchoring a hoist tower to a structure.
- (c)(4)—Hoistway doors or gates.
- (c)(8)—Electrically interlocking entrance doors or gates to the hoistway and cars.
- (c)(13)—Emergency stop switch located in the car.
- (c)(14)(i)—Using a minimum of two wire ropes for drum hoisting.
- (c)(16)—Material and component requirements for construction of personnel hoists.

The applicants contend that the permanent variance would provide their employees with a place of employment that is at least as safe and healthful as they would obtain under the existing provisions.

The places of employment affected by this variance application are the present and future projects where the applicants construct chimneys, including States under Federal jurisdiction, as well as States having safety and health plans approved by OSHA under section 18 of the OSH Act (29 U.S.C. 667) and 29 CFR part 1952 ("Approved State Plans for Enforcement of State Standards") (i.e., "State-plan States"). The applicants certify that they have provided each current employee affected by the permanent variance, as well as employee representatives, with a copy of their variance requests, and also have posted a copy of these requests in a prominent location in their corporate offices and at each job site where they normally post notices. In addition, the applicants have informed employees and their representatives of their right to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on this variance application.

## Multi-State Variance

The applicants perform chimney work in a number of geographic locations in the United States; these locations are likely to include one or more locations in State-plan States. Consequently, OSHA would issue any permanent variance granted as a result of this variance application according to the requirements specified by § 1952.9 ("Variances affecting multi-state employers") and § 1905.14(b)(3) ("Action on applications"). Under these regulations, a permanent variance granted by the Agency would become effective in State-plan States to the extent that the pertinent State standards are the same as the Federal OSHA standards from which the applicants are seeking the permanent variance. This notice provides State-plan States with an opportunity to comment on this variance application.

### SUPPLEMENTARY INFORMATION:

#### I. Table of Contents

The following Table of Contents identifies the major sections under "Supplementary Information." To understand fully the information presented in the following sections, we recommend reviewing the general and specific conditions of the permanent variance listed below under section III ("Conditions of the Application for a Permanent Variance").

- I. Table of Contents
- II. Background
  - A. Overview
  - B. Previous variances from §§ 1926.452(o)(3) and 1926.552(c)
  - C. Requested variance from § 1926.452(o)(3)
  - D. Requested variance from § 1926.552(c)
- III. Conditions of the Application for a Permanent Variance
  - A. General conditions
  - B. Specific conditions
- IV. Authority and Signature

#### II. Background

##### A. Overview

The applicants construct, remodel, repair, maintain, inspect, and demolish tall chimneys made of reinforced concrete, brick, and steel. This work, which occurs throughout the United States, requires applicants to transport employees and construction material to and from elevated work platforms and scaffolds located, respectively, inside and outside tapered chimneys. While tapering contributes to the stability of a chimney, it requires frequent relocation of, and adjustments to, the work platforms and scaffolds so that they will fit the decreasing circumference of the chimney as construction progresses upwards.

To transport employees to various heights inside and outside a chimney, the applicants propose to use a hoist system that would lift and lower personnel-transport devices that include personnel cages, personnel platforms, or boatswain's chairs. The applicants would also attach a hopper or concrete bucket to the hoist system to raise or lower material inside or outside a chimney. Applicants would use personnel cages, personnel platforms, or boatswain's chairs solely to transport employees with the tools and materials necessary to do their work, and not to transport only materials or tools in the absence of employees.

The applicants would use a hoist engine located and controlled outside the chimney, to power the hoist system. The system would also consist of a wire rope that: Spools off the hoist drum into the interior of the chimney; passes to a footblock that redirects the rope from the horizontal to the vertical planes; goes from the footblock through the overhead sheaves above the elevated platform; and finally drops to the bottom landing of the chimney where it connects to the personnel or material transport. The cathead, which is a superstructure at the top of a derrick, supports the overhead sheaves. The overhead sheaves (and the vertical span of the hoist system) move upward with the derrick as chimney construction progresses. Two guide cables, suspended from the cathead, eliminate swaying and rotation of the load. If the hoist rope breaks, safety clamps activate and grip the guide cables to prevent the load from falling. The applicants would use a headache ball, located on the hoist rope directly above the load, to counterbalance the rope's weight between the cathead sheaves and the footblock.

The applicants would implement additional conditions to improve employee safety, including:

- Attaching the wire rope to the personnel cage using a keyed-screwpin shackle or positive-locking link;
- Adding limit switches to the hoist system to prevent overtravel by the personnel- or material-transport devices;
- Ensure that material hoisting does not endanger employees by providing the safety factors and other precautions required for personnel hoists specified by the pertinent provisions of § 1926.552(c), including canopies and shields to protect employees located at the bottom of the chimney from material that may fall during hoisting and other overhead activities;
- Providing falling-object protection for scaffold platforms as specified by § 1926.451(h)(1);



- Conducting tests and inspections of the hoist system as required by §§ 1926.20(b)(2) and 1926.552(c)(15);

- Establishing an accident-prevention program that conforms to § 1926.20(b)(3);

- Ensuring that employees who use a personnel platform or boatswain's chair wear full body harnesses and lanyard; and

- Securing the lifelines (used with a personnel platform or boatswain's chair) to the rigging at the top, and to a weight at the bottom, of the chimney to provide maximum stability to the lifelines.

#### *B. Previous Variances From*

##### *§§ 1926.452(o)(3) and 1926.552(c)*

Since 1973, ten chimney-construction companies have demonstrated to OSHA that several of the hoist-tower requirements of § 1926.552(c) present access problems that pose a serious danger to their employees. These companies received permanent variances from these hoist-tower requirements, and they have effectively used the same alternate apparatus and procedures that the applicants are now proposing to use in this variance application. The Agency published the permanent variances for the ten companies at 38 FR 8545 (April 3, 1973), 50 FR 40627 (October 4, 1985), and 52 FR 22552 (June 12, 1987). Five of these permanent variances are still in effect; the remaining five variances are not in effect because the companies are no longer in business.

In deciding whether or not to grant the earlier permanent variances from the hoist-tower requirements of § 1926.552(c), OSHA asked the chimney-construction industry to conduct tests to determine the effectiveness of the new equipment, procedures, and training proposed in the applications. The Agency also evaluated these alternatives by observing them at various chimney-construction sites. In doing so, OSHA found that the alternatives were generally safe industry practices. If the Agency identified alternatives that did not adequately protect employees, it revised the conditions of the variance applications to require additional safeguards to address these discrepancies. On the basis of this experience and knowledge, OSHA finds that the applicants' requests for a permanent variance are consistent with the permanent variances that the Agency has granted previously to other employers in the chimney-construction industry. Therefore, the Agency believes that the conditions specified in these variance applications will provide the employees of the applicants with at

least the same level of safety that they would receive from § 1926.452(o)(3) and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552.

#### *C. Requested Variance From § 1926.452(o)(3)*

The applicants state that it is necessary, on occasion, to use a boatswain's chair to transport employees to and from a bracket scaffold on the outside of an existing chimney during flue installation or repair work, or to and from an elevated scaffold located inside a chimney that has a small or tapering diameter. Paragraph (o)(3) of § 1926.452, which regulates the tackle used to rig a boatswain's chair, states that this tackle must "consist of correct size ball bearings or bushed blocks containing safety hooks and properly 'eye-spliced' minimum five-eighth (5/8") inch diameter first-grade manila rope (or equivalent rope)."

The primary purpose of this paragraph is to allow an employee to safely control the ascent, descent, and stopping locations of the boatswain's chair. However, the applicants note that the required tackle is difficult or impossible to operate on some chimneys that are over 200 feet tall because of space limitations. Therefore, as an alternative to complying with the tackle requirements specified by § 1926.452(o)(3), the applicants propose to use the hoisting system described in paragraph I.A ("Overview") of this notice, both inside and outside a chimney, to raise or lower employees in a personnel cage to work locations. The applicants would use a personnel cage for this purpose to the extent that adequate space is available; they would use a personnel platform if using a personnel cage is infeasible because of limited space. If available space makes using a personnel platform infeasible, the applicants would use a boatswain's chair to lift employees to work locations. The applicants would limit use of the boatswain's chair to elevations above the last work location that the personnel cage and personnel platform can reach; under these conditions, they would attach the boatswain's chair directly to the hoisting cable only if the structural arrangement precludes the safe use of the block and tackle required by § 1926.452(o)(3).

#### *D. Requested Variance From § 1926.552(c)*

Paragraph (c) of § 1926.552 specifies the requirements for enclosed hoisting systems used to transport personnel

from one elevation to another. This paragraph ensures that employers transport employees safely to and from elevated work platforms by mechanical means during the construction, alteration, repair, maintenance, or demolition of structures such as chimneys. However, this standard does not provide specific safety requirements for hoisting personnel to and from elevated work platforms and scaffolds in tapered chimneys; the tapered design requires frequent relocation of, and adjustment to, the work platforms and scaffolds. The space in a small-diameter or tapered chimney is not large enough or configured so that it can accommodate an enclosed hoist tower. Moreover, using an enclosed hoist tower for outside operations exposes employees to additional fall hazards because they need to install extra bridging and bracing to support a walkway between the hoist tower and the tapered chimney.

Paragraph (c)(1) of § 1926.552 requires employers to enclose hoist towers located outside a chimney on the side or sides used for entrance to, and exit from, the chimney; these enclosures must extend the full height of the hoist tower. The applicants assert that it is impractical and hazardous to locate a hoist tower outside tapered chimneys because it becomes increasingly difficult, as a chimney rises, to erect, guy, and brace a hoist tower; under these conditions, access from the hoist tower to the chimney or to the movable scaffolds used in constructing the chimney exposes employees to a serious fall hazard. Additionally, the applicants note that the requirement to extend the enclosures 10 feet above the outside scaffolds often exposes the employees involved in building these extensions to dangerous wind conditions.

Paragraph (c)(2) of § 1926.552 requires that employers enclose all four sides of a hoist tower even if the tower is located inside a chimney; the enclosure must extend the full height of the tower. The applicants contend that it is hazardous for employees to erect and brace a hoist tower inside a chimney, especially small-diameter or tapered chimneys, or chimneys with sublevels, because these structures have limited space and cannot accommodate hoist towers; space limitations result from chimney design (e.g., tapering), as well as reinforced steel projecting into the chimney from formwork that is near the work location.

As an alternative to complying with the hoist-tower requirements of § 1926.552(c)(1) and (c)(2), the applicants propose to use the rope-guided hoist system proposed above in



section II.A (“Overview”) of this application to transport employees to and from work locations inside and outside chimneys. Use of the proposed hoist system would eliminate the need for the applicants to comply with other provisions of § 1926.552(c) that specify requirements for hoist towers.

Therefore, they are requesting a permanent variance from several other closely-related provisions, as follows:

- (c)(3)—Anchoring the hoist tower to a structure.
- (c)(4)—Hoistway doors or gates.
- (c)(8)—Electrically interlocking entrance doors or gates that prevent hoist movement if the doors or gates are open.
- (c)(13)—Emergency stop switch located in the car.
- (c)(14)(i)—Using a minimum of two wire ropes for drum-type hoisting.
- (c)(16)—Construction specifications for personnel hoists, including materials, assembly, structural integrity, and safety devices.

The applicants assert that the proposed hoisting system would protect their employees at least as effectively as the hoist-tower requirements of § 1926.552(c). The following section of this application describes the general and specific conditions that would apply to the proposed hoisting system.

### III. Conditions of the Application for a Permanent Variance

#### A. General Conditions

During chimney construction, the applicants propose to use a rope-guided hoist system to safely transport their employees between the bottom landing of a chimney and the elevated work location instead of complying with § 1926.552(c)(1), (c)(2), (c)(3), (c)(4), (c)(8), (c)(13), (c)(14)(i) and (c)(16). The hoist system includes the hoist machine, personnel- or material-transport device, safety cables, and additional safety measures (e.g., limit switches to prevent overrun of a personnel- or material-transport device at the top and bottom landings, and safety clamps that grip the safety cables if the main hoist line fails).

The applicants propose to use the hoist system inside and outside a chimney to raise or lower employees in a personnel cage to work locations. If available space makes using a personnel cage for this purpose infeasible, the applicants would use a personnel platform or a boatswain's chair. The applicants would limit use of the boatswain's chair to elevations above the last work location that the personnel cage and personnel platform can reach; under these conditions, they would

attach the boatswain's chair directly to the hoisting cable only if the spatial arrangement makes safe use of the block and tackle required by § 1926.452(o)(3) infeasible. For the purpose of enforcing the variance, the applicants would assume the burden of demonstrating infeasibility if they use either a personnel platform or a boatswain's chair to transport employees to a work location, or substitute the hoisting cable for the required block and tackle in lifting the boatswain's chair.

Except for the provisions identified above in this section (i.e., “General conditions”), the applicants acknowledge that they would comply fully with all other applicable provisions of 29 CFR parts 1910 and 1926 if OSHA grants their variance applications. Moreover, the applicants would comply fully with the specific conditions listed in the following section (i.e., “Specific conditions”).

#### B. Specific Conditions

The applicants propose to implement the following specific conditions as an alternative to tackle requirements provided for boatswain's chairs by § 1926.452(o)(3), and to the personnel-hoist requirements of paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552:

##### 1. Qualified Competent Person

The applicants would:

(a) Provide a qualified competent person, as specified in paragraphs (f) and (m) of § 1926.32, who is responsible for ensuring that the design, maintenance, and inspection of the hoist system complies with the conditions of this proposed alternative and to the appropriate requirements of 29 CFR part 1926 (“Safety and Health Regulations for Construction”).

(b) Whenever the hoist system is raising or lowering employees, ensure that the qualified competent person is present at ground level to assist in an emergency.

##### 2. Hoist Machine

(a) Type of hoist. The applicants would designate the hoist machine as a portable personnel hoist.

(b) Raising or lowering a transport. The applicants would ensure that the hoist machine includes a base-mounted drum hoist designed to control line speed, and that the hoist system does not use belt drives. Whenever they raise or lower a personnel or material hoist (e.g., a personnel cage, personnel platform, boatswain's chair, hopper, concrete bucket) using the hoist system, the applicants would:

(i) Continuously engage the drive components if they are lowering an empty or occupied transport (i.e., no “freewheeling”).

(ii) Interconnect, on a continuous basis, the drive system through a torque converter or mechanical (or equivalent) coupling.

(iii) If using a forward-reverse coupling or shifting transmission, ensure that the braking mechanism applies automatically when the transmission is in the neutral position.

(c) Source of power. The applicants would have the option to power the hoist machine by an air, electric, hydraulic, or internal-combustion drive mechanism.

(d) Constant pressure control switch. The applicants would:

(i) Equip the hoist machine with a hand-or foot-operated constant-pressure control switch (i.e., a “deadman control switch”) that would stop the hoist immediately upon release.

(ii) Protect the control switch to prevent it from activating if it is struck by a falling or moving object.

(e) Line-speed indicator. The applicants would equip the hoist machine with a line-speed indicator maintained in good working order, and that is in clear view of the hoist operator during hoisting operations.

(f) Braking systems. The applicants would equip the hoist machine with two (2) independent braking systems (i.e., one automatic and one manual) located on the winding side of the clutch or couplings, with each braking system being capable of stopping and holding 150 percent of the maximum rated load.

(g) Slack-rope switch. The applicants would equip the hoist machine with a slack-rope switch to prevent rotation of the hoist drum under slack-rope conditions.

(h) Frame. The applicants would ensure that the frame of the hoist machine is a self-supporting, rigid, welded steel structure, with holding brackets for anchor lines and legs for anchor bolts being integral components of the frame.

(i) Stability. The applicants would secure hoist machines in position to prevent movement shifting or dislodgement.

(j) Location. The applicants would locate the hoist machine far enough from the footblock to obtain the correct fleet angle for proper spooling of the cable on the drum. In this regard, the applicants would ensure that the fleet angle remains between one-half degree ( $1/2^\circ$ ) and one and one-half degrees ( $1-1/2^\circ$ ) for smooth drums, and between one-half degree ( $1/2^\circ$ ) and two degrees



(2°) for grooved drums, with the lead sheave centered on the drum.<sup>1</sup>

(k) Drum and flange diameter. The applicants would provide a winding drum for the hoist that is at least 30 times the diameter of the rope used for hoisting, with a flange diameter that is at least one and one-half (1-1/2) times the rope-drum diameter.

(l) Spooling of the rope. The applicants would never spool the rope closer than two (2) inches (5.1 cm) from the outer edge of the hoist-drum flange.

(m) Electrical system. The applicants would ensure that all electrical equipment is weatherproof.

(n) Limit switches. The applicants would equip the hoist system with limit switches and related equipment that automatically prevent overtravel of a personnel cage, personnel platform, boatswain's chair, or material-transport device at the top of the supporting structure, and at the bottom of the hoistway or lowest landing level.

### 3. Methods of Operation

(a) Operator. The applicants would ensure that only trained and experienced employees, who are knowledgeable of hoist-system operations, control the hoist machine.

(b) Speed limitations. The applicants would not operate the hoist at a speed in excess of:

(i) One hundred (100) feet (30.5 m) per minute if they use a personnel platform or boatswain's chair to transport employees.

(ii) Two hundred and fifty (250) feet (76.9 m) per minute if they are using a personnel cage to transport employees.

(iii) If they are hoisting only material, a line speed that is consistent with the design limitations of the system.

(c) Communication. The applicants would:

(i) Use a voice-mediated intercommunication system to maintain communication between the hoist operator and employees located in or on moving personnel cages, personnel platforms, and boatswain's chairs.

(ii) Stop hoisting if, for any reason, the communication system fails to operate effectively. Hoisting would resume only when the an applicant's site superintendent determines that it is safe to do so.

### 4. Hoist Rope

(a) Grade. The applicants would use a wire rope for the hoist system (i.e., "hoist rope") that consists of extra-improved plow steel, an equivalent grade of non-rotating rope, or a regular lay rope with a suitable swivel mechanism.

(b) Safety factor. The applicants would maintain a safety factor of at least eight (8) throughout the entire length of hoist rope.

(c) Size. The applicants would use a hoist rope that is at least one-half (1/2) inch (1.3 cm) in diameter.

(d) Installation, removal, and replacement. The applicants would also:

(i) Thoroughly inspect the hoist rope before the start of each job and on completing a new setup.

(ii) Remove and replace the wire rope with new wire rope if any of the conditions specified by § 1926.552(a)(3) occurs.

(e) Attachments. The applicants would attach the rope to a personnel cage, personnel platform, or boatswain's chair with a keyed-screwpin shackle or positive-locking link.

(f) Wire-rope fastenings. If the applicants use clip fastenings (e.g., U-bolt wire-rope clips) with wire ropes, they would:

(i) Use table H-20 of § 1926.251 to determine the number and spacing of clips.

(ii) Use at least three (3) drop-forged clips at each fastening.

(iii) Install the clips with the "U" of the clips on the dead end of rope.

(iv) Space the clips so that the distance between them is six (6) times the diameter of the rope.

### 5. Footblocks

(a) Type of block. The applicants would use a footblock:

(i) Consisting of construction-type blocks of solid single-piece bail with a safety factor that is at least four (4) times the safe workload, or an equivalent block with roller bearings.

(ii) Designed for the applied loading, size, and type of wire rope used for hoisting.

(iii) Designed with a guard that contains the wire rope within the sheave groove.

(iv) Bolted rigidly to the base.

(v) Designed and installed so that it turns the moving wire rope to and from the horizontal or vertical as required by the direction of rope travel.

(b) Directional change. The applicants would ensure that the angle of change in the hoist rope from the horizontal to the vertical direction at the footblock is about 90°.

(c) Diameter. The applicants would ensure that the line diameter of the footblock is at least 24 times the diameter of the hoist rope. To ensure this diameter-to-diameter ratio, the applicants would inspect the hoist rope regularly, and immediately discard the rope if they find evidence of any condition specified by § 1926.552(a)(3).

### 6. Cathead and Sheaves

(a) Qualified competent person. The applicants would use a qualified competent person to design and maintain the cathead (i.e., "overhead support").

(b) Support. The applicants would use a cathead that consists of a wide-flange beam or two (2) steel-channel sections securely bolted back-to-back to prevent spreading.

(c) Installation. The applicants would ensure that all sheaves revolve on shafts that rotate on bearings, and they would mount the bearings securely to maintain the proper bearing position at all times.

(d) Sheave safeguards. The applicants would provide each sheave with appropriate rope guides to prevent the hoist rope from leaving the sheave grooves if the rope vibrates or swings abnormally.

(e) Diameter. The applicants would use a cathead sheave with a diameter that is at least 24 times the diameter of the wire rope. To ensure this diameter-to-diameter ratio, the applicants would inspect the rope regularly, and immediately discard the rope if they find evidence of any condition specified by § 1926.552(a)(3).

### 7. Guide ropes

(a) Number of cables. The applicants would affix two (2) guide ropes by swivels to the cathead. The guide ropes would:

(i) Consist of steel safety cables not less than one-half (1/2) inch (1.3 cm) in diameter.

(ii) Be free of damage or defect at all times.

(b) Cable fastening and alignment tension. The applicants would fasten one end of each cable securely to the overhead support, with appropriate tension applied at the foundation.

(c) Safety clamps. The applicants would fit appropriately designed and constructed safety clamps to the guide ropes.

(d) Application of tension. The applicants would never use safety clamps that damage the ropes.

(e) Height. The applicants would rig the guide ropes along the entire height of the hoist-machine structure.

<sup>1</sup> This proposal adopts the definition of, and specifications for, fleet angle from *Cranes and Derricks*, H. I. Shapiro, et al. (eds.); New York McGraw-Hill. Accordingly, the fleet angle is "[t]he angle the rope leading onto a rope drum makes with the line perpendicular to the drum rotating axis when the lead rope is making a wrap against the flange."



## 8. Personnel Cage

(a) Construction. The applicants would use a personnel cage that:

(i) Is of steel-frame construction, and permanently enclosed on the top and sides (except for the entrance and exit).

(ii) Has a floor securely fastened in place. The floor would have a loading factor that is four (4) times its maximum rated load capacity.

(iii) Has walls that consist of 14-gauge, one-half (1/2) inch (1.3 cm) expanded metal mesh, or an equivalent material. The walls would cover the full height of the personnel cage between the floor and the overhead covering.

(iv) Has a sloped roof constructed of one-eighth (1/8) inch (0.3 cm) aluminum, or an equivalent material.

(v) Has safe handholds (e.g., rope grips—but not rails or hard protrusions—that accommodate each occupant).

(b) Overhead weight. The applicants would provide a personnel cage that has:

(i) An overhead weight (e.g., a headache ball of appropriate weight) to compensate for the weight of the hoist rope between the cathead and footblock. This weight would be capable of preventing line run.

(ii) A means to restrain the movement of the overhead weight so that it does not interfere with safe personnel hoisting.

(c) Types of gates. The applicants would provide gates that guard the full height of the entrance openings and have a functioning mechanical lock that prevents accidental gate opening.

(d) Operating procedures. The applicants would post the procedures for operating the personnel cage conspicuously at the hoist operator's station.

(e) Capacity. The applicants would hoist no more than four (4) people in the cage, and the rated load capacity of the cage would be at least 250 pounds (113.4 kg) for each person so hoisted (e.g., the rated load capacity would be at least 500 pounds (227.3 kg) for two people or 1000 pounds (454.5 kg) for four people).

(f) Employee notification. The applicants would post a sign in each personnel cage notifying employees of the following conditions:

(i) The standard rated load, as determined by the initial static drop test specified by paragraph (g) below.

(ii) The reduced rated load for the specific job.

(g) Static drop tests. The applicants would:

(i) Conduct static drop tests of each personnel cage that comply with the

definition of "static drop test" specified by section 3 ("Definitions") and the static drop test procedures provided in section 13 ("Inspections and Tests") of American National Standards Institute (ANSI) standard A10.22-1990 ("American National Standard for Rope-Guided and Nonguided Worker's Hoists—Safety Requirements").

(ii) Perform the initial static drop test at 125 percent of the maximum rated load of the personnel cage, and subsequent drop tests at no less than 100 percent of its maximum rated load.

(iii) Use only personnel cages for which no damage occurred to components as a result of the static drop tests.

## 9. Safety Clamps

(a) Attachment and operation. The applicants would attach safety clamps to each personnel cage for gripping the guide ropes. The safety clamps would:

(i) Operate on the "broken rope principle" defined in section 3 ("Definitions") of ANSI standard A10.22-1990.

(ii) Be capable of stopping and holding a personnel cage that is carrying 100 percent of its maximum rated load and traveling at its maximum allowable speed if the hoist rope breaks at the footblock.

(iii) For each hoist system, use a pre-determined and pre-set clamping force (i.e., the "spring compression force").

(b) Maintenance. The applicants would keep the safety-clamp assemblies clean and functional at all times.

## 10. Overhead Protection

To protect employees located at the base of the chimney (i.e., both inside and outside the chimney) from material and debris that may fall from above, the applicants would install a canopy or shield that is made of steel plate at least three-sixteenth (3/16) of an inch (4.763 mm) thick, or material of equivalent strength and impact resistance, and that slopes to the outside.<sup>2</sup>

## 11. Emergency-Escape Device

(a) Location. The applicants would provide an emergency-escape device, with operating instructions attached to it, in the personnel cage or at the bottom landing. If the device is:

(i) In the personnel cage, the applicants would ensure that it is long enough to reach the bottom landing from the highest possible escape point.

(ii) At the bottom landing, the applicants would provide a means in the personnel cage for the occupants to

raise the device to the highest possible escape point.

(b) Training. The applicants would instruct each employee who uses a personnel cage:

(i) On how to operate the emergency-escape device prior to the employee using a personnel cage for transportation.

(ii) Periodically, and as necessary, in the operation of the hoist system and the emergency-escape system.

## 12. Personnel Platforms and Boatswain's Chairs

(a) Personnel platform. The applicants would:

(i) Be permitted to attach the hoisting cable to a personnel platform under the conditions specified above by section III. A ("General conditions") of this application.

(ii) Ensure that an enclosure surrounds the platform that is at least 42 inches (106.7 cm) above the platform's floor.

(iii) Provide overhead protection if an overhead hazard is, or could be, present.

(iv) Comply with the applicable scaffolding strength requirements specified by § 1926.451(a)(1).

(b) Boatswain's chair. If using a boatswain's chair, the applicants would be permitted to substitute a hoisting cable for the block and falls required by § 1926.452(o)(3) under the conditions specified above by section III. A ("General conditions") of this application.

(c) Body harnesses and lifelines. Before employees use work platforms or boatswain's chairs, the applicants would equip employees with, and ensure that they use, fall-protection equipment as specified by § 1926.104 and the applicable requirements of § 1926.502(d).

## 13. Inspections, Tests, and Accident Prevention

The applicants would:

(a) Conduct inspections of the hoist system as required by § 1926.20(b)(2). These inspections would include a daily visual inspection of the system.

(b) Inspect and test the hoist system as specified by § 1926.552(c)(15).

(c) Comply with the accident-prevention requirements of § 1926.20(b)(3).

## 14. Welding

The applicants would use only qualified welders to weld components used in the hoisting system who are familiar with the weld grades, types, and materials specified in the design of

<sup>2</sup> Adapted from OSHA's Underground Construction Standard (§ 1926.800(t)(4)(iv)).



the system.<sup>3</sup> The welders would perform such welding as specified by 29 CFR part 1926, subpart J ("Welding and Cutting").

#### IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC directed the preparation of this notice under the authority specified by section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 3-2000 (65 FR 50017), and 29 CFR part 1905.

Signed at Washington, DC on May 9, 2002.

**John L. Henshaw,**

*Assistant Secretary of Labor.*

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### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271]

#### Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station); Order Approving Transfer of License and Conforming Amendment

#### I

Vermont Yankee Nuclear Power Corporation (VYNPC or the licensee) is the holder of Facility Operating License No. DPR-28, which authorizes the operation of Vermont Yankee Nuclear Power Station (Vermont Yankee or the facility) at steady-state power levels not in excess of 1,593 megawatts thermal. The facility is located at the licensee's site in the Town of Vernon, Windham County, Vermont. The license authorizes VYNPC to possess, use, and operate the facility.

#### II

Under cover of a letter dated October 5, 2001, Entergy Nuclear Vermont Yankee, LLC (Entergy Nuclear VY), Entergy Nuclear Operations, Inc. (ENO), and VYNPC jointly submitted an application requesting approval of the transfer of Facility Operating License No. DPR-28 for Vermont Yankee from VYNPC to Entergy Nuclear VY and ENO. The licensee, Entergy Nuclear VY, and ENO also jointly requested approval of a conforming amendment to reflect the transfer. The application was supplemented by submittals dated November 7 and 8, 2001, and January 23 and April 30, 2002, collectively referred

to as the "application" herein unless otherwise indicated.

Entergy Nuclear VY, a Delaware limited liability company, is an indirect wholly owned subsidiary of Entergy Corporation and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company #3. ENO, a Delaware corporation, is an indirect wholly owned subsidiary of Entergy Corporation and a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2. According to the application, Entergy Nuclear VY will assume title to the facility, while ENO will operate and maintain Vermont Yankee. The conforming license amendment would remove references to VYNPC from the license and add references to Entergy Nuclear VY and ENO, as appropriate, and make other administrative changes to reflect the proposed transfer.

VYNPC, Entergy Nuclear VY, and ENO requested approval of the transfer of the license and a conforming license amendment pursuant to 10 CFR 50.80 and 50.90. Notice of the requests for approval and an opportunity to request a hearing or submit written comments was published in the **Federal Register** on December 7, 2001 (66 FR 63566). The Commission received no requests for hearing or written comments.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. After reviewing the information submitted in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the Nuclear Regulatory Commission (NRC) staff has determined that Entergy Nuclear VY and ENO are qualified to be the holders of the license to the extent proposed in the application, and that the transfer of the license to Entergy Nuclear VY and ENO is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license

amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or the health and safety of the public; and the issuance of the proposed license amendment will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by the staff's safety evaluation dated May 17, 2002.

#### III

Accordingly, pursuant to sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the transfer of the license as described herein to Entergy Nuclear VY and ENO is approved, subject to the following conditions:

(1) Before the completion of the sale and transfer of Vermont Yankee, Entergy Nuclear VY and ENO shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Entergy Nuclear VY and ENO have obtained the appropriate amount of insurance required of licensees under 10 CFR part 140 of the Commission's regulations.

(2) On the closing date of the transfer of Vermont Yankee, Entergy Nuclear VY shall obtain from VYNPC all of the accumulated decommissioning trust funds for the facility, and ensure the deposit of such funds into a decommissioning trust for Vermont Yankee established by Entergy Nuclear VY. If the amount of such funds does not meet or exceed the minimum amount required for the facility pursuant to 10 CFR 50.75, Entergy Nuclear VY shall at such time deposit additional funds into the trust and/or obtain a parent company guarantee (to be updated annually) and/or obtain a surety pursuant to 10 CFR 50.75(e)(1)(iii) in a form acceptable to the NRC and in an amount or amounts which, when combined with the decommissioning trust funds for the facility that have been obtained and deposited as required above, equals or exceeds the total amount required for the facility pursuant to 10 CFR 50.75. To the extent Entergy Nuclear VY will obtain a parent company guarantee and/or surety to comply with the requirements of this Order, specific documentation of (a) the form of the guarantee and/or surety, and (b) the satisfaction of applicable financial tests

<sup>3</sup> Adapted from OSHA's Cranes and Derricks Standard (§ 1926.550(g)(4)(ii)(H)).