

Signed at Washington, DC, this 15th day of June, 2006.

**Edwin G. Foulke, Jr.,**  
Assistant Secretary.

[FR Doc. E6-11676 Filed 7-21-06; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271-LR; ASLBP No. 06-849-03-LR]

### Atomic Safety and Licensing Board; In the Matter of Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station)

July 18, 2006.

Before Administrative Judges: Alex S. Karlin, Chairman, Dr. Richard E. Wardwell, Dr. Thomas S. Elleman.

### Order (Setting Oral Argument Schedule and Inviting Written Limited Appearance Statements)

On June 20, 2006, the Board issued an order tentatively scheduling oral argument in this proceeding on Tuesday, August 1, 2006, and Wednesday, August 2, 2006. That order indicated that the time and location of the oral argument would be set forth in a subsequent order.

The Board hereby orders and confirms that it will hear oral argument from representatives of the petitioners, the applicant, and the NRC Staff,<sup>1</sup> commencing at 9 a.m. on Tuesday, August 1, 2006, in the multi-purpose room at Brattleboro Union High School, located at 131 Fairground Road in Brattleboro, Vermont. As necessary, oral argument will continue and recommence at 9 a.m. on Wednesday, August 2, 2006. The Board plans to adjourn each day no later than 6 p.m.

The oral argument will proceed as follows. First, we will hear a short opening statement, limited to ten minutes, from each participant. Second, the Board will hear argument on the individual contentions listed below.<sup>2</sup> Except where otherwise specified, for each listed contention the petitioner will have a total of twenty minutes, the applicant will have fifteen minutes, and

the NRC Staff will have ten minutes. Five minutes of a petitioner's time will be reserved for rebuttal unless, at the outset of argument on that contention, the petitioner chooses an alternative allocation (up to a maximum of ten minutes rebuttal). All time periods include the time for responding to questions from the Board. For those contentions not listed below, no oral argument is necessary in order for the Board to reach its decision.

In formulating their arguments, participants should keep in mind that the Board will have read their pleadings and should focus solely on the critical points in controversy as those issues have emerged in the pleadings. The main purpose of the oral argument is to allow the Board to clarify its understanding of legal and factual points to assist it in deciding the issues presented by the pleadings. Oral arguments will be conducted in accordance with the following schedule:

1. Call to order, introductory remarks.
2. Opening statement by each participant.
3. State of Massachusetts Contention 1. For this contention the petitioner will have a total of thirty minutes, the applicant will have twenty minutes, and the NRC Staff will have twenty minutes.
4. State of Vermont Contention 2. For this contention the petitioner will have a total of twenty-five minutes, the applicant will have twenty minutes, and the NRC Staff will have ten minutes.
5. State of Vermont Contention 1.
6. State of Vermont Contention 3.
7. NEC Contention 1.
8. NEC Contention 2.
9. NEC Contention 3.
10. NEC Contention 4.
11. NEC Contention 5.
12. NEC Contention 6.<sup>3</sup>
13. Adjourn.

Given that the purpose of this proceeding is to evaluate the admissibility of the petitioners' contentions and the legal issues presented in the participants' pleadings, oral argument will only be heard from the participants. Members of the public are welcome to attend and observe this proceeding. As this is an adjudicatory proceeding, the Board intends to conduct an orderly hearing and signs, banners, posters, and displays are prohibited in accordance with NRC policy. *See Procedures for Providing*

Security Support for NRC Public Meetings/Hearings, 66 FR 31,719 (June 12, 2001). All interested persons should arrive early and allow sufficient time to pass through security screening.

Oral limited appearance statements in accord with 10 CFR 2.315(a) will not be heard on August 1 and 2, 2006. If contentions are admitted after the oral argument is complete, then oral limited appearance statements may be heard at a later date. In the interim, interested individuals may submit written limited appearance statements related to the issues in this proceeding. Such written statements may be submitted at any time and should be sent either by (1) mail to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, with a copy to the Chairman of this Licensing Board at Mail Stop T-3F23, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; (2) e-mail to the Office of the Secretary at [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov), with a copy to the Board Chairman (c/o Marcia Carpentier, [mxc7@nrc.gov](mailto:mxc7@nrc.gov)); or (3) fax to the Office of the Secretary at 301-415-1101 (facsimile verification number: 301-415-1966), with a copy to the Board Chairman at 301-415-5599 (facsimile verification number: 301-415-7550).

It is so ordered.

For the Atomic Safety and Licensing Board.<sup>4</sup>

Dated: July 18, 2006 in Rockville, Maryland.

**Alex S. Karlin,**

Administrative Judge.

[FR Doc. E6-11675 Filed 7-21-06; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-483]

### Union Electric Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment

<sup>1</sup> The four petitioners are the Vermont Department of Public Service; the Massachusetts Attorney General; the New England Coalition (NEC); and the Town of Marlboro, Vermont. The applicant consists of two entities, Entergy Nuclear Vermont Yankee, L.L.C., and Entergy Nuclear Operations, Inc. The petitioners, applicant, and the NRC Staff are sometimes collectively referred to as the "participants."

<sup>2</sup> The participants are encouraged to enter into stipulations that will serve to reduce or eliminate issues or contentions.

<sup>3</sup> The Board will not hear oral argument from any participant on the contention proffered by the Town of Marlboro. However the Town of Marlboro may want to use some of the ten minutes allocated for its opening statement to address the issue as to whether the town is an "interested \* \* \* local governmental body" within the meaning of 10 CFR 2.315(c).

<sup>4</sup> Copies of this order were sent this date by Internet e-mail transmission to counsel or a representative for (1) applicant Entergy Nuclear Vermont Yankee, L.L.C., and Entergy Nuclear Operations, Inc.; (2) petitioners Town of Marlboro, Vermont, the Massachusetts Attorney General, the Vermont Department of Public Service, and the New England Coalition; and (3) the NRC staff.

to Facility Operating License No. NPF-30, issued to Union Electric Company (the licensee), for operation of the Callaway Plant, Unit 1, located in Callaway County, Missouri.

The proposed amendment would (1) delete the containment atmosphere gaseous radioactivity monitor from Technical Specification (TS) 3.4.15, "RCS [Reactor Coolant System] Leakage Detection Instrumentation," and (2) revise existing conditions, required actions, completion times, and surveillance requirements in TS 3.4.15 to account for the monitor being deleted. The licensee submitted this amendment request in its application dated June 29, 2006. This application revised the licensee's application dated August 26, 2005, for which a notice of consideration of issuance of an amendment to facility operating license and opportunity for a hearing was published in the **Federal Register** on February 28, 2006 (71 FR 10079).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

*Response:* No.

The proposed change has been evaluated and determined to not increase the probability or consequences of an accident previously evaluated. The proposed change does not make hardware changes and does not alter the configuration of any plant system, structure, or component (SSC). The proposed change only removes the containment atmosphere gaseous radioactivity monitor as an option for meeting the OPERABILITY requirements for TS 3.4.15. The TS will continue to require diverse means of leakage detection

equipment, thus ensuring that [RCS] leakage due to cracks would continue to be identified prior to propagating to the point of a pipe break and the plant shutdown accordingly. Therefore, the consequences of an accident [previously evaluated] are not increased.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

*Response:* No.

The proposed change does not involve the use or installation of new equipment and the currently installed equipment will not be operated in a new or different manner. No new or different system interactions are created and no new processes are introduced. The proposed changes will not introduce any new failure mechanisms, malfunctions, or accident initiators not already considered in the design and licensing bases [for the Callaway Plant]. The proposed change does not affect any SSC associated with an accident initiator. Based on this evaluation, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety.

*Response:* No.

The proposed change does not alter any Reactor Coolant System (RCS) leakage detection components. The proposed change only removes the containment atmosphere gaseous radioactivity monitor as an option for meeting the OPERABILITY requirements for TS 3.4.15. This change is required since the level of radioactivity in the Callaway reactor coolant has become much lower than what was assumed in the FSAR [(Final Safety Analysis Report) when the plant was licensed] and the gaseous channel [(monitor)] can no longer promptly detect a small RCS leak under normal [operating] conditions. The proposed amendment continues to require diverse means of [RCS] leakage detection equipment with [the] capability to promptly detect RCS leakage. Although not required by TS, additional diverse means of leakage detection capability are available as described in the FSAR Section 5.2.5. Early detection of [RCS] leakage, as the potential indicator of a crack(s) in the RCS pressure boundary, will thus continue to be in place so that such a condition is known and appropriate actions taken well before any such crack would propagate to a more severe condition. Based on this evaluation, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be

considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

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

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309,

which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters

within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; (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: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV); or (4) 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. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory

Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to the John O'Neill, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated June 29, 2006, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 14th day of July 2006.

For the Nuclear Regulatory Commission.

**Jack Donohew,**

*Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. E6-11674 Filed 7-21-06; 8:45 am]

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## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-482]**

### **Wolf Creek Nuclear Operating Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-42, issued to Wolf Creek Nuclear Operating Corporation (the licensee), for operation of the Wolf Creek Generating Station (WCGS), located in Coffey County, Kansas.

The proposed amendment would revise Technical Specification 5.5.9, "Steam Generator (SG) Program," by