

reactor power level not in excess of 2200 megawatts thermal. The facility is a pressurized water reactor located at the licensee's site in Dade County, Florida. The license provides among other things, that it is subject to all rules, regulations, and Orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

## II

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 requires the performance of three Type A containment integrated leakage rate tests (ILRTs) of the primary containment, at approximately equal intervals during each 10-year service period.

## III

By letter dated August 8, 1995, and revised by letter dated September 6, 1995, the licensee requested an exemption from the requirements pertaining to the Type A testing interval required by 10 CFR 50 Appendix J. This section requires the performance of three Type A tests of the primary containment at approximately equal intervals during each 10-year service period. The requested exemption would permit a one-time interval extension of the Type A test by one refueling outage (from the March 1996 refueling outage, to the October 1997 refueling outage).

The licensee's request cites the special circumstances of 10 CFR 50.12, paragraph (a)(2)(ii) as the basis for the exemption. The licensee points out that the existing Type B and C testing programs are not being modified by this request and allowing a one-time scheduler exemption will not reduce the current level of safety since the Type A test frequency does not alter the containment leak rates.

## IV

In the licensee's August 8, 1995, as revised by letter dated September 6, 1995, exemption request, the licensee stated that special circumstance 50.12(a)(2)(ii) is applicable to this situation, i.e., that application of the regulation is not necessary to achieve the underlying purpose of the rule.

Appendix J states that the leakage test requirements provide for periodic verification by tests of the leak tight integrity of the primary reactor containment. Appendix J further states that the purpose of the tests "is to assure that leakage through the primary reactor containment shall not exceed the allowable leakage rate values as specified in the Technical Specifications or associated bases." Thus, the underlying purpose of the

requirement to perform Type A containment leak rate tests at intervals during the 10-year service period is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or becoming unknown.

The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. It has been the experience at Turkey Point Unit 4 during the Type A tests conducted from 1982 to date, that the Type A tests have demonstrated that the reactor containment buildings have acceptable leak rates that are far below the leak rates assumed in the site's offsite dose calculation and the ILRT acceptance criteria. The licensee has reported that the test results are approximately one-third to one-fourth of the leakage assumed in offsite dose rate calculations (0.25%) and approximately one-half to one-third of the acceptance criteria for the ILRT (0.1875%). The leak rate data from these tests do not show an increasing trend, indicating that the containment liner and isolation system are stable and supporting the conclusion that a one-time scheduler exemption will not reduce the current level of safety.

The licensee will perform the general containment inspection although it is only required by Appendix J (Section V.A.) to be performed in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary.

The NRC staff has also made use of a draft staff report, NUREG-1493, which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The integrated leakage rate test, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by local leakage rate tests (Type B and C). According to results given in NUREG-1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only 5 ILRT failures were found which local leakage rate testing could not detect. This is 3% of all failures. This study agrees well with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded  $1.0L_a$ . Of these, only nine were not due to Type B or C leakage penalties. The NEI data also added another perspective. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than  $2L_a$ ; in one case the leakage was found to be approximately  $2L_a$ ; in one case the as-found leakage was less than  $3L_a$ ; one case approached  $10L_a$ ; and in one case the leakage was found to be approximately  $21L_a$ . For about half of the failed ILRTs the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding to  $L_a$  (approximately  $200L_a$ , as discussed in NUREG-1493). Therefore, based on those considerations, it is unlikely that an extension of one cycle for the performance of the Appendix J, Type A test at Turkey Point Unit 4 would result in significant degradation of the overall containment integrity. As a result, the application of the regulation in these particular circumstances is not needed to achieve the underlying purpose of the rule.

Based on generic and plant-specific data, the NRC staff finds the basis for the licensee's proposed exemption to allow a one-time exemption to permit a scheduler extension of one cycle for the performance of the Appendix J Type A test, provided that the general containment inspection is performed, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (60 FR 49926).

This Exemption is effective upon issuance and shall expire at the completion of the 1997 refueling outage.

Dated at Rockville, Maryland, this 27th day of September 1995.

For the Nuclear Regulatory Commission.

**Steven A. Varga,**

*Director, Division of Reactor Projects—I/II,  
Office of Nuclear Reactor Regulation.*

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[Docket No. 50-298]

**Nebraska Public Power District, Cooper Nuclear Station Notice of Withdrawal of Application for Amendment to Facility Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of the Nebraska Public Power District, (the licensee) to withdraw its August 31, 1993, application for proposed amendment to Facility Operating License No. DPR-46 for the Cooper Nuclear Station, located in Nemaha County, Nebraska.

The proposed amendment would have modified the facility technical specifications pertaining to the standby gas treatment system, secondary containment, and primary containment isolation valves.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on October 13, 1993 (58 FR 52988). Subsequently, the licensee informed the staff that the amendment is no longer required. Thus, the amendment application is considered to be withdrawn by the licensee.

For further details with respect to this action, see (1) the application for amendment dated August 31, 1993, and (2) the staff's letters dated September 19, 1995, and October 2, 1995.

The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Rockville, Maryland, this 2nd day of October 1995.

For the Nuclear Regulatory Commission.

**James R. Hall,**

*Senior Project Manager, Project Directorate IV-1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 95-25147 Filed 10-10-95; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Rel. No. IC-21388; No. 812-8884]

**Alexander Hamilton Life Insurance Company of America, et al.**

October 3, 1995.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

**APPLICANTS:** Alexander Hamilton Life Insurance Company of America ("Alexander Hamilton"), Alexander Hamilton Variable Annuity Separate Account ("Separate Account"), and FMG Distributors, Inc. ("FMG").

**RELEVANT 1940 ACT SECTION:** Order requested under Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2) and 27(c)(2) thereof.

**SUMMARY OF APPLICATION:** Applicants seek an order permitting the deduction of mortality and expense risk charges from the assets of the Separate Account in connection with the offering of a variable annuity contract ("Contract"). Exemptions also are requested for any broker-dealers who may, in the future, act as principal underwriters of the Contract.

**FILING DATE:** The application was filed on March 10, 1994 and declared inactive on May 1, 1995. The application was amended and reactivated on May 8, 1995, and further amended on September 7, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 30, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Paul Shay, Esq., General Counsel, Alexander Hamilton Life Insurance Company of America, 33045 Hamilton Court, Farmington Hills, Michigan 48334-3358.

**FOR FURTHER INFORMATION CONTACT:** Yvonne M. Hunold, Assistant Special Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

**Applicants' Representation**

1. Alexander Hamilton is a stock life insurance company licensed to do business in Canada, the District of Columbia and all states except New York. Alexander Hamilton is a wholly-owned subsidiary of Household Group, Inc., which is an indirect wholly-owned subsidiary of Household International, Inc., a diversified financial services holding company.

2. Alexander Hamilton established the Separate Account under the laws of Michigan. A registration statement to register the Separate Account under the 1940 Act as a unit investment trust has been filed with the Commission (File No. 33-75714).<sup>1</sup>

The Separate Account presently has nine sub-accounts ("Sub-Accounts") investing exclusively in shares of a corresponding portfolio of: (a) Alexander Hamilton Variable Insurance Trust ("Trust"); and (b) the Prime Money Fund ("Prime Fund"), part of Federated Investors Insurance Management Series ("Federated"), which is a management investment company. (The Trust and Prime Fund together referred to as "Funds.") Other sub-accounts may be established in the future to invest in other portfolios of the Funds or in portfolios of other affiliated or unaffiliated investment companies or unit investment trusts.

3. FMG will serve as distributor and principal underwriter of the Contract. FMG is not otherwise affiliated with the other Applicants. FMG is registered under the Securities Exchange Act of 1934 ("1934 Act") as a broker-dealer and is a member of the National Association of Securities Dealers, Inc. ("NASD"). Other broker-dealers that are registered under the 1934 Act as broker-dealers and that are members of the NASD also may serve as distributors and principal underwriters of the Contract.

4. The Trust and Federated each are registered under the 1940 Act as an open-end management investment company of the series type as defined by Rule 18f-2 under the 1940 Act. Investment options offered under the Contract include eight Trust portfolios and Federated's Prime Fund. Alexander Hamilton Capital Management, Inc. and Federated Advisers, each a registered investment adviser under the Investment Advisers Act of 1940, are the investment advisers for the Trust and for the Prime Fund, respectively. A separate class of shares of beneficial interest, which have been registered as securities under the 1933 Act on Form

<sup>1</sup> Applicants incorporate by reference the registration statement for the Separate Account.