

NMP-2, respectively, pursuant to 10 CFR 50.75(b) and (c).

(3) The master decommissioning trust agreement for NMP-1 and NMP-2, at the time any subject direct transfer is effected and thereafter, is subject to the following:

a. The decommissioning trust agreement must be in a form acceptable to the NRC.

b. With respect to the decommissioning trust funds, investments in the securities or other obligations of CEG Inc., New Controlled, or their affiliates, successors, or assigns, are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.

c. The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the NRC 30 days prior written notice of the payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the Director of the Office of Nuclear Reactor Regulation.

d. The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

e. The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) NMP LLC shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the Application, the requirements of the June 22, 2001, Order (amended by this Order herein), and the related safety evaluation.

(5) At the time any subject direct transfer is effected, NMP LLC shall enter or shall have entered into an intercompany credit agreement with Constellation Energy Group (CEG), Inc., or New Controlled, whichever entity is the ultimate parent of NMP LLC at that time, in the form and on the terms represented in the Application. Should New Controlled become the ultimate

parent of NMP LLC following the direct transfer of the licenses to NMP LLC, NMP LLC shall enter or shall have entered into a substantially identical intercompany credit agreement with New Controlled at the time New Controlled becomes the ultimate parent; in such case, any existing intercompany credit agreement with CEG, Inc. may be canceled once the intercompany credit agreement with New Controlled is established. Except as otherwise provided above, NMP LLC shall take no action to void, cancel, or modify any intercompany credit agreement referenced above, without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

(6) NMPC shall inform the Director of the Office of Nuclear Reactor Regulation of the date(s) of the closing of the direct transfers no later than two business days prior to such respective date(s). If all of the direct and indirect transfers of the licenses approved by the June 22, 2001, Order, as supplemented by this Order are not completed by June 30, 2002, this Order and the June 22, 2001, Order shall become null and void with respect to those transfers not so completed, provided, however, upon written application and for good cause shown, such date may in writing be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Supplemental Order, to conform the operating license for NMP-2 to reflect the subject first phase of the direct license transfers, is approved. If NMPC, RG&E, and CHGEC transfer their interests in NMP-2 to NMP LLC and NYSEG does not concurrently transfer its interest in NMP-2, the amendment shall be issued and made effective at the time NMPC, RG&E, and CHGEC transfer their interests in NMP-2 to NMP LLC.

It is further ordered that, to the extent any of the conditions of the June 22, 2001, Order, and conditions contained in the conforming license amendments approved by that Order, are inconsistent with the conditions contained in this Supplemental Order and conditions contained in the amendment approved by this Supplemental Order, all such inconsistent conditions of the June 22, 2001, Order, and all such inconsistent conditions contained in the conforming license amendments approved by that Order, are hereby modified to be consistent with the conditions contained in this Supplemental Order and conditions contained in the license amendment approved by this Supplemental Order. License amendments for NMP-1 and NMP-2, as

approved by the June 22, 2001, Order, and as modified herein, or the license amendment as approved by this Supplemental Order, shall be issued as appropriate and made effective at the time the corresponding license transfers occur.

This Supplemental Order is effective upon issuance.

For further details with respect to this Supplemental Order, see the Supplemental Application transmitted by letters dated September 10, 26, and 28, 2001, the associated supplemental safety evaluation dated October 30, 2001, and the Order and its associated safety evaluation both dated June 22, 2001. All of these documents are available for public inspection at the Commission's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD, and are accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site <http://www.nrc.gov>.

Dated at Rockville, Maryland, this 30th day of October, 2001.

For the Nuclear Regulatory Commission

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01-29970 Filed 12-3-01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-354]

PSEG Nuclear LLC; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of PSEG Nuclear LLC (the licensee) to withdraw its November 29, 2000, application as supplemented August 10, 2001, for proposed amendment to Facility Operating License No. NPF-57 for the Hope Creek Generating Station (HCGS), located in Salem County, New Jersey.

The proposed amendment would have modified the HCGS technical specifications to reflect the enabling of the Oscillation Power Range Monitor (OPRM) reactor protection system (RPS) trip function. The OPRM is designed to detect the onset of reactor core power oscillations resulting from thermal-hydraulic instability and suppress them by initiating a reactor scram via the RPS trip logic.

The Commission had previously issued a Notice of Consideration of

Issuance of Amendment published in the **Federal Register** on December 27, 2000 (65 FR 81930). However, by letter dated October 19, 2001, the licensee withdrew the proposed change. The withdrawal request was based on the extended time period General Electric Company (GE) is projecting to resolve a defect that was reported to the Commission pursuant to part 21 of Title 10 of the Code of Federal Regulations (10 CFR part 21). The defect pertains to GE's OPRM setpoint methodology as detailed in letters from GE to the Commission dated June 29 and August 31, 2001. The defect could result in non-conservative OPRM trip setpoints. The OPRM is currently installed at HCGS with the RPS trip function disabled.

For further details with respect to this action, see the application for amendment dated November 29, 2000, as supplemented August 10, 2001, and the licensee's letter dated October 19, 2001, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room (PDR) Reference staff by telephone at 1-800-397-4209, 301-415-4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 28th day of November 2001.

For the Nuclear Regulatory Commission.

Richard B. Ennis,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management Office of Nuclear Reactor Regulation.

[FR Doc. 01-29971 Filed 12-3-01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 70-7002]

Portsmouth Gaseous Diffusion Plant United States Enrichment Corporation; Notice of Consideration of Request for Temporary Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of request for temporary exemption.

SUMMARY: The Nuclear Regulatory Commission (Commission) is considering the issuance of a temporary exemption from the requirement to perform an emergency preparedness (EP) exercise every 2 years for the Portsmouth Gaseous Diffusion Plant operated by the United States Enrichment Corporation (USEC). The request for temporary exemption is necessary because USEC had to postpone the required scheduled EP exercise because of the terrorist attacks on the United States, lack of availability of Federal agencies, and the current heightened alert status of the plant. USEC expects to conduct the EP exercise by April 30, 2002. The NRC has prepared an environmental assessment with a finding of no significant impact on the request.

FOR FURTHER INFORMATION CONTACT: Dan E. Martin, Project Manager, Special Projects Branch, Division of Fuel Cycle and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 415-7254, e-mail dem1@nrc.gov.

SUPPLEMENTARY INFORMATION: The Commission is considering the issuance of a temporary exemption from the requirement to perform an emergency preparedness exercise every 2 years, pursuant to 10 CFR part 76, for the Portsmouth Gaseous Diffusion Plant (PORTS), operated by USEC. The facility is authorized to use Special Nuclear Material (SNM) in the enrichment of natural uranium to prepare low-enriched uranium to be used by others in the fabrication of nuclear fuel pellets and fuel assemblies and operates near Piketon, Ohio.

The PORTS facility was scheduled to conduct an EP exercise on September 12, 2001. This exercise was postponed because of the terrorist attacks on the United States that occurred on September 11, 2001. Because of the ongoing high alert status of the plant, and the need to coordinate with several offsite agencies and groups, the PORTS EP exercise will not be performed this calendar year. USEC expects to conduct the exercise no later than April 30, 2002.

The last EP exercise conducted at the PORTS facility was held on September 14, 1999. USEC's Emergency Plan, in accordance with 10 CFR 76.91(l), requires that plant personnel plan and conduct biennial EP exercises. Because the next exercise will not be conducted during calendar year 2001, USEC has requested a temporary exemption from

the requirement to conduct biennial EP exercises. The NRC staff has prepared an environmental assessment of the proposed action and reached a finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant temporary scheduler relief from the requirement pursuant to 10 CFR 76.91(l) to perform a biennial EP exercise during calendar year 2001. The proposed action would allow USEC to conduct the PORTS 2001 biennial exercise as late as April 30, 2002. The proposed action is in accordance with USEC's request for exemption dated October 4, 2001.

Need for the Proposed Action

The proposed action is necessary to support a request to USEC by the United States Department of Energy (DOE) that the EP exercise scheduled for September 12, 2001, be postponed until calendar year 2002. Furthermore, because of the heightened state of security alert that the plant is under and the unavailability of some participants, USEC has determined that it would not be prudent to hold the 2001 biennial EP exercise during calendar year 2001. Allowing the delay would avoid overlap with the current state of high alert and allow fuller participation by other agencies and groups.

Environmental Impacts of the Proposed Action

The proposed action would not materially affect the emergency response capabilities of the PORTS facility. The last EP exercise was conducted on September 14, 1999, and there were no issues identified which required immediate corrective action. NRC reviews and inspections since the 1999 exercise have not identified a decline in the effectiveness of USEC's emergency response capability. The postponement should have no impact on the effectiveness of USEC's emergency response capability. The proposed action will not increase the probability or consequences of accidents, no changes are being made in the amounts or types of any effluents that could be released offsite, and there is no increase in individual or cumulative radiation exposure. Accordingly, the Commission concludes that there are no significant radiological impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other