

For the Nuclear Regulatory Commission.

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271]

### Vermont Yankee Nuclear Power Corporation; Vermont Yankee Nuclear Power Station; Notice of Consideration of Approval of Transfer of Facility Operating License and Conforming Amendment, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of Facility Operating License No. DPR-28 currently held by Vermont Yankee Nuclear Power Corporation (VYNPC), as owner and licensed operator of Vermont Yankee Nuclear Power Station (VYNPS). The transfer would be to Entergy Nuclear Vermont Yankee, LLC (Entergy Nuclear VY), the proposed owner of VYNPS, and to Entergy Nuclear Operations, Inc. (ENO), the proposed entity to operate VYNPS. The Commission is also considering amending the license for administrative purposes to reflect the proposed transfer.

According to an application for approval filed by VYNPC, Entergy Nuclear VY, and ENO, Entergy Nuclear VY would assume title to the facility following approval of the proposed license transfer, and ENO would operate and maintain VYNPS. VYNPC will transfer all decommissioning trust funds to a decommissioning trust established by Entergy Nuclear VY. No physical changes to the facility or operational changes are being proposed in the application.

The proposed amendment would replace references to VYNPC in the license with references to Entergy Nuclear VY and/or ENO, as appropriate, and make other necessary administrative changes to reflect the proposed transfer.

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 Holdings Company #2.

Pursuant to 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. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming 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.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By December 27, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR

2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)-(2).

Requests for a hearing and petitions for leave to intervene should be served upon David R. Lewis, Esq., Shaw, Pittman, LLP, 2300 N Street, NW., Washington, DC 20037-1128, Phone: (202) 663-8474, Fax: (202) 663-8007, e-mail: [david.lewis@shawpittman.com](mailto:david.lewis@shawpittman.com); and Douglas Levanway, Esq., Wise Carter Child & Caraway, 600 Heritage Building, 401 East Capitol Street, P.O. Box 651, Jackson, MS 39201-5519, Phone: (601) 968-5524, Fax: (601) 968-5519, e-mail: [del@wisecarter.com](mailto:del@wisecarter.com); the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: [ogclt@nrc.gov](mailto:ogclt@nrc.gov)); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by January 7, 2002, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

Further details with respect to this action, see the initial application dated October 5, 2001, and supplements dated November 7 and November 8, 2001, available for public inspection at the Commission'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/ADAMS/index.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 e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland this 3rd day of December 2001.

For the Nuclear Regulatory Commission.

**Robert M. Pulsifer,**

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

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-155]

### Consumers Energy Company; Big Rock Point Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering approval of a request to dispose of demolition debris in accordance with Title 10 of the Code of Federal Regulations (10 CFR) section 20.2002 for Facility Operating License No. DPR-6, issued to Consumers Energy Company, (the licensee), for the possession of the Big Rock Point (BRP) Plant, located in Charlevoix County, Michigan. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

#### Environmental Assessment

##### *Identification of the Proposed Action*

The proposed action would approve the disposal of BRP Plant demolition debris that could contain trace quantities of licensed materials in a State of Michigan landfill. The debris would consist of flooring materials, concrete, rebar, roofing materials, structural steel, soils associated with digging up foundations, and concrete and/or asphalt pavement or other similar solid materials originating from decommissioning activities. A radiological survey process would be used to determine if the debris is acceptable for landfill disposal. The request for approval is submitted pursuant to 10 CFR 20.2002 due to the potential presence of licensed material in the debris.

The proposed action is in accordance with the licensee's application requesting approval dated March 14, 2001, as supplemented by letters dated May 18 and June 20, 2001.

##### *The Need for the Proposed Action*

The proposed action is needed to dispose of demolition debris that may contain trace quantities of licensed material in a State of Michigan landfill prior to license termination as opposed to (1) terminating the license with the material remaining onsite (either with structures intact or demolished) in accordance with 10 CFR 20, subpart E, or (2) handling the debris as low level radioactive waste and shipping it to a low level waste facility. As stated in the proposal, the licensee does not intend to make this submittal for intentional disposal of radioactive waste, but recognizes that a potential exists for trace quantities of licensed material to be present at levels below instrument detection capabilities. Disposal of the demolition debris in the manner proposed is protective of public health and safety, is consistent with as low as reasonably achievable, and is the most cost-effective alternative.

##### *Environmental Impacts of the Proposed*

The NRC has completed its evaluation of the proposed action and concludes that the environmental impacts of processing the total waste projected for BRP (635,100 cubic feet), which includes the 563,000 cubic feet of demolition debris proposed to be sent to a State of Michigan landfill, are bounded by the NUREG-0586, "Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities," (GEIS) evaluation of 18,975 cubic meters (670,096 cubic feet) of waste disposal for a generic boiling water reactor. Adherence to the radiological survey process would ensure that the potential radiological dose posed by the demolition debris to a transport worker, a landfill worker, or a member of the public is conservatively estimated at a maximum of 1.0 millirem/year.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic

sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

##### *Environmental Impacts of the Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in (1) terminating the license for unrestricted use in accordance with 10 CFR part 20, subpart E, with the demolition debris remaining onsite (either with structures intact or demolished), or (2) handling the debris as low level radioactive waste and shipping it to a low level waste facility. The environmental impacts of the proposed action and the alternative action are similar.

##### *Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in BRP's Environmental Report for Decommissioning, dated February 27, 1995, or in the GEIS.

##### *Agencies and Persons Consulted*

On May 22, 2001, the staff consulted with the Michigan State official, Mr. David W. Minnaar of the Michigan Department of Environmental Quality, Drinking Water and Radiological Protection Division, regarding the environmental impact of the proposed action. The State official had no comments.

#### Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 14, 2001, as supplemented by letters dated May 18 and June 20, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), 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 System's (ADAMS) Public