

fabricated with Optimized ZIRLO™. Based on the staff's evaluation, as set forth above, the staff considers that granting the proposed exemption will not defeat the underlying purpose of 10 CFR 50.44, 10 CFR 50.46, or Appendix K to 10 CFR part 50. Accordingly, special circumstances, are present pursuant to 10 CFR 50.12(a)(2)(ii).

### 3.3.5. Other Standards in 10 CFR 50.12

The staff examined the rest of the licensee's rationale to support the exemption request, and concluded that the use of Optimized ZIRLO™ would satisfy 10 CFR 50.12(a) as follows:

(1) The requested exemption is authorized by law:

No law precludes the activities covered by this exemption request. The Commission, based on technical reasons set forth in rulemaking records, specified the specific cladding materials identified in 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, Appendix K. Cladding materials are not specified by statute.

(2) The requested exemption does not present an undue risk to the public health and safety as stated by the licensee:

The LTA safety evaluation will ensure that these acceptance criteria [in the Commission's regulations] are met following the insertion of LTAs containing Optimized ZIRLO™ material. Fuel assemblies using Optimized ZIRLO™ cladding will be evaluated using NRC-approved analytical methods and plant specific models to address the changes in the cladding material properties. The safety analysis for VSNS is supported by the applicable technical specification. The VSNS reload cores containing Optimized ZIRLO™ cladding will continue to be operated in accordance with the operating limits specified in the technical specifications. LTAs utilizing Optimized ZIRLO™ cladding will be placed in non-limiting core locations. Thus, the granting of this exemption request will not pose an undue risk to public health and safety.

The NRC staff has evaluated these considerations as set forth in Section 3.1 of this exemption. For the reasons set forth in that section, the staff concludes that Optimized ZIRLO™ may be used as a cladding material for no more than four LTAs to be placed in nonlimiting core locations during VSNS's next refueling outage, and that an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, Appendix K does not pose an undue risk to the public health and safety.

#### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by

law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants SCE&G exemptions from the requirements of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, Appendix K, to allow four LTAs containing fuel rods with Optimized ZIRLO™ and several different developmental clad alloys.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (70 FR 1742).

This exemption is effective upon issuance.

Dated in Rockville, Maryland, this 14th day of January 2005.

For the Nuclear Regulatory Commission.

**James E. Lyons,**

*Deputy Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-390]

### Utility Name; 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 to Facility Operating License No. NPF-90 issued to the Tennessee Valley Authority (the licensee) for operation of the Watts Bar Nuclear Plant (WBN), Unit 1, located in Rhea County, Tennessee.

The proposed change allows entry into a mode or other specified condition in the applicability of a Technical Specification (TS), while in a condition statement and the associated required actions of the TS, provided the licensee performs a risk assessment and manages risk consistent with the program in place for complying with the requirements of title 10 of the Code of Federal Regulations (10 CFR), part 50, section 50.65(a)(4). Limiting Condition for Operation (LCO) 3.0.4 exceptions in individual TSs would be eliminated, several notes or specific exceptions are revised to reflect the related changes to LCO 3.0.4, and Surveillance Requirement (SR) 3.0.4 is revised to

reflect the LCO 3.0.4 allowance. The No Significant Hazards Consideration Determination concerning this change was published in the **Federal Register** on January 18, 2005 (70 FR 2901).

A separate change, not described in the above **Federal Register** notice, was also included in the licensee's application. In accordance with TS Task Force (TSTF)—285, Charging Pump Swap Low-Temperature Over-Pressurization Allowance, LCO 3.4.12, Cold Overpressure Mitigation System (COMS), is being revised to modify and relocate two notes in the WBN TSs. The changes are all administrative, except a change which would allow two charging pumps to be made capable of injecting into the Reactor Coolant System to support pump swap operations for a period not to exceed 1 hour instead of the currently allowed 15 minutes.

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 10 CFR 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. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the WBN TS is consistent with improvements made to the Standard Technical Specifications for Westinghouse Plants and continues to provide controls for safe operation within the required limits. The probability of occurrence or the consequences of an accident are not significantly increased as a result of the increased time from 15 minutes to one hour to allow pump swap operations. The one hour time period is reasonable considering the small likelihood of an event during this brief period and the other administrative controls available (e.g., operator action to stop any pump that inadvertently starts) and considering the required vent paths in accordance with the LCO. The proposed change does not affect degradation of accident mitigation systems. The proposed

revision continues to maintain the required safety functions.

Accordingly, the probability of an accident or the consequences of an accident previously evaluated is not significantly increased.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change improves the WBN TS consistent with improvements made to the Standard Technical Specifications (STS) for Westinghouse Plants and continues to provide controls for safe operation within the required limits. The subject change improves currently allowed pump swap provisions by realistically addressing time to safely and deliberately secure the operating pump and place the alternate pump in service, and provides additional assurance that seal injection requirements are not compromised. No new or different accident potential is created by the subject change. The change does not adversely impact plant equipment, test methods, or operating practices. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to the WBN TS is consistent with improvements made to the Standard Technical Specifications for Westinghouse Plants and provides improved pump swap provisions which should enhance safe operation within required limits. The change does not adversely impact plant equipment, test methods, or operating practices. The proposed change does not affect degradation of accident mitigation systems and continues to maintain the required safety functions of COMS to assure that the reactor vessel is adequately protected against exceeding pressure and temperature limits. Therefore, 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, 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 requestor's/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(a)(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 General Counsel, Tennessee

Valley Authority, ET 11A, 400 West Summit Hill Drive, Knoxville, TN 37902, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated September 15, 2004, 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 in Rockville, Maryland, this 25th day of January 2005.

For the Nuclear Regulatory Commission.

**Douglas V. Pickett,**

*Senior Project Manager, Section II, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## **NUCLEAR REGULATORY COMMISSION**

### **Workshop on Regulatory Structure for New Plant Licensing, Part 1: Technology-Neutral Framework**

The U.S. Nuclear Regulatory Commission (NRC) has issued a working draft of a NUREG report "Regulatory Structure for New Plant Licensing, Part 1: Technology-Neutral Framework" (draft NUREG-3-2005) for public review and comment. The purpose of this working draft NUREG is to provide an approach, scope, and acceptance criteria that could be used by the NRC staff to develop a technology-neutral set of requirements for future plant licensing. At the present time, the material contained in the working draft NUREG is preliminary and does not represent a final staff position, but rather is an interim product issued for the purpose of engaging stakeholders early in the development of the document and to support a workshop to be held in March 2005. As such, certain sections of this document are incomplete and are planned to be completed following receipt of initial stakeholder feedback. It is the staff's intent to complete this document in late

2005 and issue it as a final draft for stakeholder review and comment.

The work represented in this document is, however, considered sufficiently developed to illustrate one possible way to establish a technology-neutral approach to future plant licensing and to identify the key technical and policy issues which must be addressed; accordingly, it can serve as a useful vehicle for engaging stakeholders and facilitating discussion.

The NRC staff has issued a working draft NUREG on "Regulatory Structure for New Plant Licensing, Part 1: Technology-Neutral Framework." The NRC staff requests comments within 90 days from the issuing date of this **Federal Register** Notice. Comments may be accompanied by relevant information or supporting data. Please mention draft NUREG-3-2005 in the subject line of your comments. You may submit comments by any one of the following methods.

Mail comments to Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.

E-mail comments to [NRCREP@nrc.gov](mailto:NRCREP@nrc.gov). You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

Hand deliver comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415-5144.

Requests for information about the draft NUREG may be directed to Mr. A. Singh at (301) 415-0250 or e-mail [AXS3@nrc.gov](mailto:AXS3@nrc.gov).

Comments will be most helpful if received by April 22, 2005. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

The NRC intends to conduct a workshop on March 14-16, 2005, to help facilitate the review and comment process. This workshop will be held in the auditorium at NRC headquarters, 11545 Rockville Pike, Rockville, Maryland.

Please notify Mr. A. Singh at (301) 415-0250 or e-mail [AXS3@nrc.gov](mailto:AXS3@nrc.gov), if you plan to attend the workshop so that you can be pre-registered. Pre-registration will help facilitate your entry into the NRC facility for the workshop. In addition, please arrive at NRC headquarters 45 minutes prior to the start of the workshop so that you