

Safety Evaluation dated December 8, 2005.

*No significant hazards consideration comments received:* No.

*Southern Nuclear Operating Company, Inc., Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina*

*Date of application for amendment:* June 22, 2005.

*Brief description of amendment:* This amendment for Virgil C. Summer replaces the current reactor coolant system pressure-temperature limits for 32 effective full power years with the proposed limits for 56 effective full power years.

*Date of issuance:* December 13, 2005.

*Effective date:* As of the date of issuance and shall be implemented within 30 days.

*Amendment No.:* 174.

*Renewed Facility Operating License No. NPF-12:* Amendment revises the Technical Specifications.

*Date of initial notice in Federal Register:* September 27, 2005 (70 FR 56504).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 13, 2005.

*No significant hazards consideration comments received:* No.

*Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia*

*Date of application for amendments:* May 25, 2005.

*Brief description of amendments:* The amendments revised the Technical Specifications to adopt the provisions of Industry/TS Task Force (TSTF) change TSTF-359, "Increased Flexibility in Mode Restraints."

*Date of issuance:* December 13, 2005.

*Effective date:* As of the date of issuance and shall be implemented within 60 days from the date of issuance.

*Amendment Nos.:* 246/190.

*Renewed Facility Operating License Nos. DPR-57 and NPF-5:* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* August 16, 2005 (70 FR 48207).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 13, 2005.

*No significant hazards consideration comments received:* No.

*Southern Nuclear Operating Company, Inc., Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia*

*Date of application for amendments:* April 26, 2004, as supplemented by letters dated April 18 and July 22, 2005.

*Brief description of amendments:* The amendments revised the Units 1 and 2 Technical Specifications Limiting Condition for Operation 3.7.9, "Ultimate Heat Sink (UHS)," to allow plant operation with three fans and four spray cells in the Nuclear Service Cooling Water system under certain atmospheric conditions.

*Date of issuance:* December 2, 2005.

*Effective date:* As of the date of issuance and shall be implemented within 90 days from the date of issuance.

*Amendment Nos.:* 140 and 119.

*Facility Operating License Nos. NPF-68 and NPF-81:* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* July 20, 2004 (69 FR 43462).

The supplements dated April 18 and July 22, 2005, provided clarifying information that did not change the scope of the April 26, 2004, application nor the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 2, 2005.

*No significant hazards consideration comments received:* No.

Dated at Rockville, Maryland, this 23rd day of December, 2005.

For the Nuclear Regulatory Commission.

**Edwin M. Hackett,**

*Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 05-24669 Filed 12-30-05; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of January 2, 2006:

A Closed Meeting will be held on Thursday, January 5, 2006 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the

Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a), (3), (5), (7), 9(ii) and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Atkins, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, January 5, 2006 will be:

Formal orders of investigations;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Regulatory matter involving a financial institution;

Amicus consideration; and an Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551-5400.

Dated: December 29, 2005.

**Nancy M. Morris,**  
*Secretary.*

[FR Doc. 05-24702 Filed 12-29-05; 3:49 pm]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53024; File No. SR-NASD-2005-095]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 2 Thereto Relating to Sub-Penny Restrictions for Non-Nasdaq Over-the-Counter Equity Securities

December 27, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 28, 2005, the National Association of

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. On August 16, 2005, NASD filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on August 25, 2005.<sup>4</sup> On December 22, 2005, NASD filed Amendment No. 2 to the proposed rule change.<sup>5</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend NASD Rule 6750 to impose restrictions on the display of quotes and orders in sub-penny increments for non-Nasdaq OTC equity securities.

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

\* \* \* \* \*

#### 6540. Requirements Applicable to Market Makers

(a) No change.

(b) No change.

[(c) A participating ATS or ECN shall reflect non-subscriber access or post-transaction fees in the ATS's or ECN's posted quote in the OTC Bulletin Board montage.]

[(d)](c) OTCBB-eligible securities that meet the frequency-of-quotation requirement for the so called "piggyback" exception in SEC Rule 15c2-11(f)(3)(i) are identified in the Service as "active" securities. A member can commence market making in any active security by registering as a market maker through a Nasdaq Workstation at the firm. In all other instances, a member must follow the procedure contained in this Rule to become qualified as a market maker in a particular OTCBB-eligible security.<sup>1</sup>

#### (1) Permissible Quotation Entries

(A) No change.

(B) No change.

(C) No change.

(D) No change.

<sup>3</sup>In Amendment No. 1, the NASD made certain technical changes to the rule text.

<sup>4</sup>Securities Exchange Act Release No. 52280 (August 17, 2005), 70 FR 49959.

<sup>5</sup>In Amendment No. 2, the NASD altered the proposed rule text in response to a commenter, and made a technical change to the rule text.

(E) The written notice required by subparagraphs [(d)](c)(1)(D)(i), (iii) and (iv) of this Rule may be submitted on the Underwriting Activity Report provided by the Market Regulation Department.

(F) For purposes of subparagraph [(d)](c)(1)(D), SEC Rules 100, 101, 103 and 104 are rules of the Commission adopted under Regulation M and the following terms shall have the meanings as defined in SEC Rule 100: "affiliated purchaser," "distribution," "distribution participant," "penalty bid," "reference security," "restricted period," "stabilizing," "subject security," and "syndicate covering transaction."

(2) No change.

(3) No change.

(4) No change.

(5) No change.

[(e)](d) Compliance with Market Maker Requirements

Failure of a member or a person associated with a member to comply with this Rule may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 2110.

<sup>1</sup> No change to footnote.

\* \* \* \* \*

#### 6750. [Minimum] Quotation [Size] Requirements for OTC Equity Securities

(a) No change.

(b) *No member shall display, rank, or accept a bid or offer, an order, or an indication of interest in any OTC Equity Security priced in an increment smaller than \$0.01 if that bid or offer, order or indication of interest is priced equal to or greater than \$1.00 per share.*

(c) *No member shall display, rank, or accept a bid or offer, an order, or an indication of interest in any OTC Equity Security priced in an increment smaller than \$0.0001 if that bid or offer, order or indication of interest is priced equal to or greater than \$0.01 per share and less than \$1.00 per share.*

[(b)](d) For purposes of this Rule, the term "OTC Equity Security" means any equity security not classified as a "designated security" for purposes of the Rule 4630 and 4640 Series, or as an "eligible security," for purposes of the Rule 6400 Series. The term does not include "restricted securities," as defined by SEC Rule 144(a)(3) under the Securities Act of 1933, nor any securities designated in the PORTAL MarketSM.

\* The OTCBB can accept bids/offers expressed in fractions as small as 1/2 or in decimals up to four [six] places. In applying the price test for minimum quotation size, any increment beyond an upper limit in the

right hand column will trigger application of the minimum quote size for the next tier. For example, a bid (or offer) of \$.505 must be firm for a size of 2,500 shares.

\* \* \* \* \*

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

Based on comments received in response to the publication of the proposed rule change and Amendment No. 1 thereto, NASD is filing this Amendment No. 2 to SR-NASD-2005-095 to respond to the comments received and to make a technical change as described herein.

*Proposal.* As described in the original filing and Amendment No. 1, NASD is proposing amendments to NASD Rule 6750 that would prohibit members from displaying, ranking, or accepting a bid or offer, an order, or an indication of interest in any non-Nasdaq OTC equity securities in any quotation medium priced in an increment smaller than \$0.01 if such bid or offer, order, or indication of interest is priced equal to or greater than \$1.00 per share. In addition, members also would be prohibited from displaying, ranking, or accepting a bid, offer, an order, or an indication of interest in any non-Nasdaq OTC Equity Security priced in an increment smaller than \$0.0001 if such bid or offer, order, or indication of interest is priced equal to or greater than \$0.01 per share and less than \$1.00 per share.

*Comments to the Proposed Rule Change.* The Commission received two comment letters in response to the publication of the proposed rule change.<sup>6</sup> The first commenter supports

<sup>6</sup>See Letter to Jonathan G. Katz, Secretary, Commission, from Phylis M. Esposito, Executive Vice President, Chief Strategy Officer, Ameritrade, Inc., dated October 31, 2005; Letter to Jonathan G. Katz, Secretary, Commission, from Kevin J.P. O'Hara, Chief Administrative Officer and General

the proposal, but states the proposed sub-penny requirements conflict with Rule 6540(c), which requires alternative trading systems ("ATSs") and electronic communications networks ("ECNs") to reflect non-subscriber access or post-transaction fees in their posted quote in the over-the-counter Bulletin Board ("OTCBB") montage. Specifically, the commenter states that, because ATS access fees generally are in sub-penny amounts, ATSs would not be able to reflect those access fees in their quotes if sub-penny quoting were prohibited. In addition, the commenter contends that there is no legitimate policy rationale for keeping Rule 6540(c) for the OTCBB, particularly in light of the Commission's recent adoption of Regulation NMS, which permits ECNs and ATS to charge access fees in national market system securities.

NASD agrees with the commenter that, absent eliminating the access fee display requirement Rule 6540(c), it would conflict with the proposed amendments to Rule 6750. Accordingly, NASD is proposing to delete the text of Rule 6540(c).

The second commenter also supports the proposal, but argues that further rulemaking related to the OTC market is required. Specifically, the commenter suggests that NASD impose limit order display requirements for OTC equity securities, together with or prior to the implementation of this proposal. The commenter indicates that, unlike Rule 612 under Regulation NMS,<sup>7</sup> which was preceded by the Commission's Order Handling Rules, including the Limit Order Display Rule,<sup>8</sup> no similar requirements currently exist in the OTC market.

Because the changes recommended by the commenter are outside the scope of the proposed changes that are part of this rule filing, NASD is not responding to these recommendations specifically herein. NASD will review and analyze these recommendations in the same manner in which it would consider any requests for rulemaking, and, based on such review and analysis, will determine whether further action on these recommendations is appropriate.

**Technical Change.** NASD also is proposing to make a technical change to the footnote in Rule 6750 relating to OTCBB system technology. Specifically, the footnote in Rule 6750 provides, among other things, that the OTCBB can accept bids/offers expressed in decimals

up to six decimal places. The footnote text does not reflect the current OTCBB technology. Therefore, NASD is proposing to amend the text of the footnote in Rule 6750 to reflect that the OTCBB can accept bids/offers expressed in decimals up to four decimal places.

## 2. Statutory Basis

NASD believes that the proposed rule change, as amended, is consistent with the provisions of section 15A of the Act,<sup>9</sup> in general, and with section 15A(b)(6) of the Act,<sup>10</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change would reduce the potential harms associated with sub-penny quoting in non-Nasdaq OTC equity securities.

### B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change, as amended, would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change and Amendment No. 1 thereto were solicited by the Commission in response to the publication of the proposed rule change and Amendment No. 1 thereto. The Commission received two comment letters.<sup>11</sup> The comments are summarized above.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2005-095 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-2001.

All submissions should refer to File Number SR-NASD-2005-095. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR-NASD-2005-095 and should be submitted on or before January 24, 2006.

Counsel, Archipelago Trading Services, Inc., dated September 23, 2005.

<sup>7</sup> 17 CFR 242.612.

<sup>8</sup> 17 CFR 242.604.

<sup>9</sup> 15 U.S.C. 78o-3.

<sup>10</sup> 15 U.S.C. 78o-3(b)(6).

<sup>11</sup> See *supra* note 6.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Nancy M. Morris,**  
Secretary.

[FR Doc. E5-8196 Filed 12-30-05; 8:45 am]

BILLING CODE 8010-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Noise Compatibility Program Notice; Northwest Arkansas Regional Airport, Highfill, AR

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Northwest Arkansas Regional Airport under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as "the Act" and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On June 7, 2005, the FAA determined that the noise exposure maps submitted by Northwest Arkansas Regional Airport Authority under Part 150 were in compliance with applicable requirements. On December 2, 2005, the FAA approved the Northwest Arkansas Regional Airport noise compatibility program. Both of the recommendations of the program were approved. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport sponsor.

**EFFECTIVE DATE:** The effective date of the FAA's approval of the Northwest Arkansas Regional Airport noise compatibility program is December 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tim Tandy, Federal Aviation Administration, ASW-630, Fort Worth, TX 76193-0630; telephone (817) 222-5635. Documents reflecting this FAA action may be reviewed at this same location.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA has given its overall approval to the noise compatibility program for Northwest Arkansas Regional Airport, effective December 2, 2005.

Under Section 47504 of the Act, an airport operator who has previously

submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals or reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the

request may require an environmental assessment of the proposed action.

Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Regional Office in Fort Worth, Texas.

The Northwest Arkansas Regional Airport Authority submitted to the FAA on May 25, 2005, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from August 4, 2000 through May 25, 2005. The Northwest Arkansas Regional Airport Authority noise exposure maps were determined by FAA to be in compliance with applicable requirements on June 7, 2005. Notice of this determination was published in the **Federal Register** on June 22, 2005.

The Northwest Arkansas Regional Airport requested that the FAA evaluate and approve its submitted material as a noise compatibility program as described in Section 47504 of the Act. The FAA began its review of the program on June 2, 2005 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained two proposed actions for noise mitigation. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the FAA effective December 2, 2005.

Outright approval was granted for both of the specific program elements. The sponsor proposes to reevaluate the FAR Part 150 Study at the end of five years. In addition, if there is a significant change in either aircraft types or numbers of operations, or significant new facilities, the sponsor proposes to update the study prior to the end of the five-year timeframe. The sponsor also proposes to develop a Planners Forum type committee to review proposed land use changes in the Airport Influence Area. The committee could be composed of planners representing the various jurisdictions, regional planners, airport

<sup>12</sup> 17 CFR 200.30-3(a)(12).