

### 3.23 Authorized by Law

This exemption would allow Oyster Creek to rely on OMAs, in conjunction with the other installed fire protection features, to ensure that at least one means of achieving and maintaining hot shutdown remains available during and following a postulated fire event, as part of its FPP, in lieu of meeting the requirements specified in III.G.2 for a fire in the analyzed fire areas. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50. The NRC staff has determined that granting of this exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

### 3.24 No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR part 50, Appendix R, Section III.G is to ensure that at least one means of achieving and maintaining hot shutdown remains available during and following a postulated fire event. Based on the above evaluation, the NRC staff finds that the plant features, as described in the March 3, 2009, submittal, as supplemented by letter dated April 2, 2010, should limit the occurrence and impacts of any fire that may occur. This, combined with the ability of the OMAs to place and maintain the plant in a safe condition in the event of a fire that does damage safe shutdown equipment, provides adequate protection of public health and safety. Therefore, there is no undue risk to public health and safety.

### 3.25 Consistent With Common Defense and Security

This exemption would allow Oyster Creek to credit the use of the specific OMAs, in conjunction with the other installed fire protection features, in response to a fire in the analyzed fire areas, discussed above, in lieu of meeting the requirements specified in III.G.2. This change, to the operation of the plant, has no relation to security issues nor does it diminish the level of safety from what was intended by the requirements of III.G.2. Therefore, the common defense and security is not diminished by this exemption.

### 3.26 Special Circumstances

One of the special circumstances described in 10 CFR 50.12(a)(2)(ii) is that the application of the regulation is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR part 50, Appendix R, Section III.G is to ensure that at least

one means of achieving and maintaining hot shutdown remains available during and following a postulated fire event. While the licensee does not comply with the explicit requirements of III.G.2, specifically, they do meet the underlying purpose of 10 CFR part 50, Appendix R, and Section III.G as a whole. Therefore, special circumstances exist that warrant the issuance of this exemption as required by 10 CFR 50.12(a)(2)(ii).

### 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, is consistent with the common defense and security and that special circumstances are present to warrant issuance of the exemption. Therefore, the Commission hereby grants Exelon an exemption from the requirements of Section III.G.2 of Appendix R of 10 CFR part 50, to utilize the OMAs discussed above at Oyster Creek.

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 (74 FR 36274).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of March 2011.

For the Nuclear Regulatory Commission.

**Joseph G. Giitter,**

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

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## NUCLEAR REGULATORY COMMISSION

[NRC-2009-0345]

### Final Regulatory Guide: Issuance, Availability

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of issuance and availability of Regulatory Guide (RG) 5.79, "Protection of Safeguards Information."

**FOR FURTHER INFORMATION CONTACT:** Robert Norman, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-2278 or e-mail: [Robert.Norman@nrc.gov](mailto:Robert.Norman@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing a new guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Regulatory Guide (RG) 5.79 "Protection of Safeguards Information," was issued August 6, 2009 as a Draft Regulatory Guide (DG) for public comment under the temporary identification number DG-5034. RG 5.79 is a new regulatory guide which describes methods the staff of the NRC consider acceptable to implement the general performance requirements specified in Title 10, Section 73.21(a)(i) and (ii), of the Code of Federal Regulations, "Protection of Safeguards Information: Performance Requirements," (10 CFR 73.21) that establish, implement, and maintain an information protection system that includes the applicable measures for safeguards information (SGI) specified in 10 CFR 73.22, "Protection of Safeguards Information: Specific Requirements," or 10 CFR 73.23, "Protection of Safeguards Information—Modified Handling: Specific Requirements." This guide applies to all licensees, certificate holders, applicants, or other persons who produce, receive, or acquire SGI (including SGI with the designation or marking: "Safeguards Information—Modified Handling" (SGI-M)).

The guidance and criteria contained in this document pertain to the protection of SGI as defined in 10 CFR part 73, "Physical Protection of Plants and Materials." It is intended to assist licensees and other persons who produce, receive, or acquire SGI to establish an information protection system that addresses (1) information to be protected, (2) conditions for access, (3) protection while in use or storage, (4) preparing and marking documents or other matter, (5) reproduction of matter containing SGI, (6) external transmission of documents and material, (7) processing SGI on electronic systems, (8) removal from the SGI category, and (9) destruction of matter containing SGI.

10 CFR 73.21 "Protection of Safeguards Information: Performance Requirements," requires, in part, that

each licensee, certificate holder, applicant, or other person who produces, receives, or acquires Safeguards Information (SGI) shall ensure that it is protected against unauthorized disclosure.

## II. Further Information

On August 6, 2009, a **Federal Register** Notice was issued (74 FR 39343) announcing the availability of DG-5034 for public comment period. The public comment period closed on October 1, 2009. The staff's responses to the public comments received are available through the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession Number ML103270225. The Regulatory Analysis for this Regulatory Guide is available in ADAMS under Accession No. ML103270227. Electronic copies of RG 5.79 are available through the NRC's public Web site under "Regulatory Guides" at <http://www.nrc.gov/reading-rm/doc-collections/reg-guides/>.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4205, by fax at (301) 415-3548, and by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland this 1st day of April 2011.

For the Nuclear Regulatory Commission.  
**Harriet Karagiannis,**

*Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313; NRC-2011-0076]

### Entergy Operations, Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has granted the request of Entergy Operations, Inc. (the licensee), to withdraw its application dated August 24, 2010, and supplemented by letters dated November 12, 2010, and February 28, 2011, for a proposed amendment to Facility Operating License No. DPR-51

for the Arkansas Nuclear One, Unit 1, located in Pope County, Arkansas.

The proposed amendment would have revised several Technical Specifications (TSs) to permit a greater time period for one of the two required reactor coolant system cooling loops (commonly known as a Decay Heat Removal loop) to be inoperable. The affected TSs are applicable in lower Modes of Operation, Modes 4, 5, and 6.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on November 2, 2010 (75 FR 67401). However, by letter dated March 24, 2011, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 24, 2010, the supplemental letters dated November 12, 2010, and February 28, 2011, and the licensee's letter dated March 24, 2011, which withdrew the application for license amendment (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML102371014, ML103160175, ML110590738, and ML110840216, respectively). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the 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, or 301-415-4737 or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland this 30th day of March 2011.

For the Nuclear Regulatory Commission.  
**Nageswaran Kalyanam,**

*Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64173; File No. SR-CHX-2011-02]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Alter the Fee Schedule To Repeal the Trade Processing Fee Credit Paid to Institutional Brokers

April 4, 2011.

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 March 24, 2011, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The CHX proposes to amend its Schedule of Participant Fees and Assessments (the "Fee Schedule"), effective March 24, 2011, to alter its schedule of fees for Participants to repeal the Trade Processing Fee credit currently paid to institutional brokers. The text of this proposed rule change is available on the Exchange's Web site at [http://www.chx.com/rules/proposed\\_rules.htm](http://www.chx.com/rules/proposed_rules.htm), and in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549.

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

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

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