

such products before allowing them to be distributed. By distributing products that had not been reviewed and approved by NRC, 21st Century circumvented the very process that is designed to assure safety, and thereby created a potential for safety consequences.

4. The NRC's Office of Investigations (OI) conducted a comprehensive investigation into the violations. OI found no evidence of employee sabotage and the licensee has not provided any such evidence. If the NRC had found evidence of employee sabotage as the cause of the violations, we would have held 21st Century accountable nonetheless, and could have considered assigning a higher severity level to the violations, in accordance with Section IV.A.4 of the Enforcement Policy. NRC licensees are accountable for the violations committed by their employees, and appropriate enforcement action may be taken therefor. *Advanced Medical Systems, Inc.*, 39 NRC 285, 311-12 (1994), *aff'd*. *Advanced Medical Systems, Inc. v. NRC*, 61 F. 3d 903 (6th Cir. 1995). See also Enforcement Policy, Section VII.B.6.

5. The "two years or two inspection" criterion was added to the civil penalty assessment process in 1995. In the June 30, 1995 **Federal Register** notice announcing this and other Enforcement Policy changes, the NRC said this particular change was made to focus additional attention on "situations of greater concern (*i.e.*, where a licensee has had more than one significant violation in a 2-year or two-inspection period" The two-inspection period interval was adopted in recognition of the fact that some licensees, such as 21st Century Technologies, Inc., are inspected at intervals that exceed two years.

6. There is no basis to agree with the licensee's assertion that it should be given credit for "Identification" as the licensee did not in fact identify any of the violations itself. Moreover, 21st Century was the subject of previous escalated enforcement action in 1996 for unauthorized distribution of licensed material, and was repeatedly told verbally and in writing that no products could be distributed that were not explicitly authorized by the license. Despite that previous enforcement action, the licensee failed to put a program in place to identify non-compliances.

7. While the licensee has laid out an extensive set of long-term corrective actions, the point the NRC made in denying credit for prompt and comprehensive corrective action was that the licensee was still developing these corrective actions at the time of the enforcement conference, about two years after NRC became involved in pointing out the violations to the licensee. While the licensee may have taken timely short-term actions to stop the violations as they were identified, the licensee did not consider long-term comprehensive action to improve its oversight of licensed activities until it hired a consultant just prior to the predecisional enforcement conference. Accordingly, the licensee's corrective actions overall were not prompt.

8. There is no basis to grant 21st Century's request for mitigation and a reduction in the severity level of the violations, due to the claimed "special circumstances" of significance of the violations, lack of clarity

of the requirement, overall sustained performance of the licensee, "good faith" (non-willful) nature of the violations, or extensive corrective action. The significance of the violations does not justify mitigation because the Severity Level III classification was appropriate and in accordance with the Enforcement Policy. See Items 1-4, above. There was no lack of clarity in the pertinent license condition. The licensee's admitted failure to understand its own license does not reduce the significance of the violations. See Item 1, above. The licensee's assertion that its overall sustained good performance justifies mitigation is not supported by the facts or the Enforcement Policy. The 1996 enforcement action in conjunction with the subject current violations indicates the opposite of sustained good performance. Moreover, the Enforcement Policy nowhere states that the assigned severity level may be reduced because of sustained good performance. The licensee's assertion that it deserves mitigation because the violations were committed in "good faith" (no willfulness) is unjustified. See Items 1-2, above. Nor would any corrective actions justify a reduction in the assigned Severity Level III. Corrective actions are considered in determining whether the base civil penalty should be increased or decreased. See Enforcement Policy, Section VI.C.2.c. The NRC staff did consider the licensee's corrective actions and appropriately determined that credit for prompt and comprehensive corrective actions was not warranted. See Item 7, above.

NRC Conclusion

The NRC concludes that the severity level of the violations was appropriately determined, that the civil penalty assessment process was correctly followed, and that the licensee has not provided a basis for reducing the severity level of the violations or for mitigating the proposed civil penalty. Therefore, the staff recommends that the civil penalty proposed for the violations in the notice should be imposed by Order.

[FR Doc. 04-20299 Filed 9-7-04; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-498 and 50-499]

STP Nuclear Operating Company, et al.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of STP Nuclear Operating Company (the licensee) to withdraw its June 21, 2004, application for proposed amendment to Facility Operating License No. NPF-76 and Facility Operating License No. NPF-80 for the South Texas Project, Units 1 and 2, respectively, located in Matagorda County, Texas.

The proposed amendment would have revised the Technical

Specifications to extend the steam generator inspection interval.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 20, 2004 (69 FR 43463). However, by letter dated August 12, 2004, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 21, 2004, and the licensee's letter dated August 12, 2004, which withdrew the application for license amendment. 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 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/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@nrc.gov.

Dated at Rockville, Maryland, this 30th day of August, 2004.

For the Nuclear Regulatory Commission.

David H. Jaffe,

Senior Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04-20301 Filed 9-7-04; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-02]

Notice and Solicitation of Comments Pursuant to 10 CFR 20.1405 and 10 CFR 50.82(b)(5) Concerning Proposed Action to Decommission the University of Michigan Ford Nuclear Reactor (FNR)

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received an application from the University of Michigan dated June 23, 2004, for a license amendment approving its proposed decommissioning plan for the FNR (Facility License No. R-28) located in Ann Arbor, Michigan.

In accordance with 10 CFR 20.1405, the Commission is providing notice and soliciting comments from local and

State governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning. This notice and solicitation of comments is published pursuant to 10 CFR 20.1405, which provides for publication in the **Federal Register** and in a forum, such as local newspapers, letters to State or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site.

Comments should be provided within 30 days of the date of this notice to Patrick M. Madden, Chief, Research and Test Reactors Section, New, Research and Test Reactors Program, Division of Regulatory Improvement Programs, Mail Stop O12-G13, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Further, in accordance with 10 CFR 50.82(b)(5), notice is also provided to interested persons of the Commission's intent to approve the plan by amendment, subject to such conditions and limitations as it deems appropriate and necessary, if the plan demonstrates that decommissioning will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public.

A copy of the application is available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at (the Public Electronic Reading Room) <http://www.nrc.gov/reading-rm/adams.html>.

Dated in Rockville, Maryland, this 31st day of August, 2004.

For the Nuclear Regulatory Commission.

Patrick M. Madden,

Section Chief, Research and Test Reactors Section, New Research and Test Reactors Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 04-20300 Filed 9-7-04; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of a Revised Information Collection: OPM Forms 1496 and 1496A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reclearance of a revised information collection. OPM Forms 1496 and 1496A, Application for Deferred Retirement (Separations before October 1, 1956) and Application for Deferred Retirement (Separations on or after October 1, 1956) are used by eligible former Federal employees to apply for a deferred Civil Service annuity. Two forms are needed because there was a major revision in the law effective October 1, 1956; this affects the general information provided with the forms.

Approximately 3,000 OPM Forms 1496 and 1496A will be completed annually. We estimate it takes approximately 1 hour to complete both forms. The annual burden is 3,000 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606-8358, FAX (202) 418-3251 or via e-mail to mbtoomey@opm.gov. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415-3540; and Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

For Information Regarding Administrative Coordination—Contact: Cyrus S. Benson, Team Leader, Publication Team, RIS Support Services/Support Group, (202) 606-0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04-20323 Filed 9-7-04; 8:45 am]

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POSTAL SERVICE

Sunshine Act Meting

TIMES AND DATES: 11 a.m., Monday, September 13, 2004; 8:30 a.m., Tuesday, September 14, 2004.

PLACE: Boston Massachusetts, at the Hotel Commonwealth, 500 Commonwealth Avenue, in the Esplanade Room.

STATUS: September 13—11 a.m. (Closed); September 14—8:30 a.m. (Open)

MATTERS TO BE CONSIDERED:

Monday, September 13—11 a.m. (Closed)

1. Office of Inspector General Fiscal Year 2005 Budget.
2. Financial Update.
3. Fiscal Year 2005 Integrated Financial Plan Briefing.
4. Rate Case Planning
5. Strategic Planning.
6. Personnel Matters and Compensation Issues.

Tuesday, September 14—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, July 19-20, 2004.
2. Remarks of the Postmaster General and CEO.
3. Committee Reports.
4. Board of Governors Bylaw Amendments.
5. Postal Rate Commission Fiscal Year 2005 Budget.
6. Fiscal Year 2005 Annual Performance Plan-Government Performance and Results Act.
7. Fiscal Year 2005 Operating Plan.
8. Fiscal Year 2005 Capital Investment Plan.
9. Preliminary Fiscal Year 2006 Appropriation Request.
10. Capital Investments.
 - a. 210 automatic Induction Systems for AFSSM 100.
 - b. Integrated Dispatch and Receipt.
 - c. Cargo Vans Modification Request.
 - d. Atlantic City, New Jersey, Main Post Office.
11. Report on the Northeast Area and Boston District.
12. Tentative Agenda for the November 4, 2004, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, DC 20260-1000. Telephone (202) 268-4800.

William T. Johnstone,
Secretary.

[FR Doc. 04-20418 Filed 9-3-04; 1:42 pm]

BILLING CODE 7710-13-M