

*Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit 1, San Diego County, California*

*Date of application for amendment:* January 28, 2004, supplemented by a letter dated July 23, 2004.

*Brief description of amendment:* The amendment revises the SONGS Unit 1 License and Permanently Defueled Technical Specifications to modify or remove operational and administrative requirements that are not applicable upon the transfer of all spent fuel from the spent fuel pool into the SONGS dry cask storage Independent Spent Fuel Storage Installation.

*Date of issuance:* September 21, 2004.

*Effective date:* As of the date that all reactor fuel has been permanently removed from the spent fuel pool and stored in an Independent Spent Fuel Storage Installation. The license amendment shall be implemented within 30 days of its effective date.

*Amendment No.:* 163.

*Facility Operating License No. DPR-13:* This amendment revises both the license and the technical specifications.

*Date of initial notice in Federal Register:* March 30, 2004 (69 FR 16623). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 21, 2004.

No significant hazards consideration comments received: No.

*Tennessee Valley Authority, Docket Nos. 50-259, 50-260, and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama*

*Date of application for amendments:* July 31, 2002 as supplemented by letters dated December 9, 2002, February 12, 2003, March 26, 2003, July 11, 2003, July 17, 2003, May 17, 2004, July 2, 2004, August 24, 2004 and September 17, 2004.

*Description of amendment request:* The amendments requested full implementation of an alternative source term (AST) methodology for the Units 1, 2, and 3 operating licenses and design bases. The amendments adopt the AST methodology by revising the current accident source term and replacing it with an accident source term as prescribed in 10 CFR 50.67. The submittals also proposed to revise and/or remove the Technical Specification (TS) Sections associated with control room emergency ventilation (CREV), standby gas treatment (SGT), standby liquid control (SLC), and secondary containment systems. Additionally, the submittals requested modification of the licensing and design basis to reflect the

application of the AST methodology and the function of the SLC system, and deletion of a license condition for Units 2 and 3.

The supplements to the original application included the withdrawal of the request to delete one of the TS Sections described above, associated with the absorption of elemental iodine by the SGT and CREV systems charcoal filters. Also the supplements added a new TS Section to require verification that the minimum fuel decay period has passed prior to moving fuel after the reactor is shut down.

*Date of issuance:* September 27, 2004.

*Effective date:* Date of issuance, to be implemented prior to restart of Unit 1, and within 120 days for Units 2 and 3.

*Amendment Nos.:* 251, 290 and 249. Facility Operating License Nos. DPR-33, DPR-52, and DPR-68: Amendments revised the Operating Licenses and TSs.

*Date of initial notice in Federal Register:* October 15, 2002 (67 FR 63697). The supplements dated December 9, 2002, February 12, March 26, July 11, and July 17, 2003, provided information that changed the scope of the original request, therefore another **Federal Register** notice was published on April 27, 2004 (69 FR 22883). However, the supplements dated May 17, July 2, August 24, and September 17, 2004, provided clarifying information that did not expand the scope of the revised request or the proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 27, 2004.

No significant hazards consideration comments received: No.

*Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee*

*Date of application for amendment:* March 5, 2004.

*Brief description of amendment:* The amendments delete surveillance requirements to perform certain channel functional tests of the source range, intermediate, and power range neutron flux monitors. These amendments eliminate extraneous and unnecessary performance of these surveillances.

*Date of issuance:* September 20, 2004.

*Effective date:* As of the date of issuance and shall be implemented within 45 days.

*Amendment Nos.:* 295 and 285.

*Facility Operating License No. DPR-77 and DPR-79:* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* April 13, 2004 (69 FR 19576).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 2004.

No significant hazards consideration comments received: No.

*Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee*

*Date of application for amendment:* March 5, 2004.

*Brief description of amendment:* The amendments eliminate the requirements in the technical specifications associated with hydrogen recombiners and hydrogen monitors.

*Date of issuance:* September 20, 2004.

*Effective date:* As of the date of issuance and shall be implemented within 45 days.

*Amendment Nos.:* 296 and 286.

*Facility Operating License Nos. DPR-77 and DPR-79:* Amendments revised the technical specifications.

*Date of initial notice in Federal Register:* April 13, 2004 (69 FR 19576).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 20, 2004.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 1<sup>st</sup> day of October, 2004.

For the Nuclear Regulatory Commission.

**William H. Ruland,**

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

[FR Doc. 04-22544 Filed 10-8-04; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50478; File No. SR-NASD-2004-107]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of a Proposed Rule Change Relating to Computer Generated Quoting in Exchange-Listed Securities

September 30, 2004.

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 12, 2004, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed

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

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

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 Nasdaq. 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 the Substance of the Proposed Rule Change**

Nasdaq proposes to eliminate NASD Rule 6330(d) ("Obligations of CQS Market Makers") to allow market makers to engage in Computer Generated Quoting ("CGQ") in exchange-listed securities. The text of the proposed rule change is below. New text is in *italics*. Deleted text is in brackets.

\* \* \* \* \*

#### **6330. Obligations of CQS Market Makers**

(a)–(c) No Change.

#### **[(d) Computer-Generated Quotations]**

[(1) General Prohibition—Except as provided below, this rule prohibits the automatic updating or tracking of inside quotations in CQS by computer-generated quote systems. This ban is necessary to offset the negative impact on the capacity and operation of Nasdaq systems regarding certain systems techniques that track changes to the inside quotation and automatically react by generating another quote to keep the market maker's quote away from the best market, without any cognizable human intervention.]

#### **[(2) Exceptions to the General Prohibition]**

Automated updating of quotations is permitted when:

(A) The update is in response to an execution in the security by that firm (such as execution of an order that partially fills a market maker's quotation size);

(B) It requires a physical, cognizable entry (such as a manual entry to the market maker's internal system which then automatically forwards the update to a Nasdaq system);

(C) The update is to reflect the receipt, execution, or cancellation of a customer limit order;

(D) It is used to expose a customer's market or marketable limit order for price improvement opportunities; or

(E) It is used to equal or improve either or both sides of the national best bid or offer ("NBBO"), or add size to the NBBO.]

[(e)d] Minimum Price Variation for Decimal-based Quotations

(1) No Change.

\* \* \* \* \*

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

In its filing with the Commission, Nasdaq 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. Nasdaq 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**

##### *Background*

Nasdaq proposes to eliminate NASD Rule 6330(d), which governs CGQ in exchange-listed securities. Currently, NASD Rule 6330 prohibits the practice of automatically, and without cognizable human intervention, updating a market maker's quote to keep the market maker away from the inside market. NASD Rule 6330(d)(2) contains five exceptions to the general prohibition, including exceptions for conduct that is consistent with the Commission's Order Handling Rules, and for CGQ that equals or improves either or both sides of the national best bid or offer ("NBBO") or adds size to the NBBO.

The limitations contained in NASD Rule 6330(d) were originally implemented because of capacity constraints that Nasdaq believes no longer persist. Under recent procedures implemented by the Consolidated Tape Association,<sup>3</sup> Nasdaq now has the opportunity to request additional capacity to accommodate increased quoting. Since Nasdaq would bear the expense of the additional capacity under the new procedures, Nasdaq should be free to increase capacity without objection from the other markets that quote and trade exchange-listed securities.

Nasdaq believes that the current restriction on CGQ in exchange-listed securities not only reduces transparency in the National Market System, but also

places a burden on highly automated participants that may wish to add liquidity in Nasdaq on a proprietary basis. Firms posting bids and offers using the Nasdaq Market Center are disadvantaged relative to firms using the other market centers, such as the regional stock exchanges and electronic communications networks.

Under the proposal, market makers would be able to engage in CGQ without limitations. Broad use of CGQ has been permitted for two years in Nasdaq-listed securities<sup>4</sup> and has benefited investors by improving liquidity, transparency, and order interaction in the Nasdaq Market Center. Market participants have developed sophisticated systems that generate quote updates through automated means. These market makers engage in trading strategies in which their quoted prices are based on several factors, such as the last sale, bids, offers, and sizes, where available, on stocks, futures and options, and certain statistically derived relationships among these instruments.

##### *Compliance With ITS Plan*

Nasdaq believes that the proposed rule change is consistent with the Act and with the Intermarket Trading System ("ITS") Plan. Nasdaq has examined the language in the ITS Plan and believes that nothing in the ITS Plan prohibits auto-quoting in exchange-listed securities. Subsection 8(d)(ii) of the ITS Plan, titled "Adoption of Trade-Through Rules," references, *inter alia*, the practice of furnishing bid-asked quotations that are generated by an automated quotation system (functionality Nasdaq refers to as CGQ). According to Nasdaq, the sole purpose of Subsection 8(d)(ii) of the ITS Plan was to implement the trade-through rule, and not to banish entirely the whole practice of CGQ in exchange-listed securities. Nasdaq states that Subsection 8(d)(ii) of the ITS Plan establishes that CGQ for more than 100 shares should be prohibited only inasmuch as CGQ might prevent the implementation of the trade-through rule. Nasdaq believes that, if CGQ does not prevent the implementation of the trade-through rule, then Subsection 8(d)(ii) of the ITS Plan, and the remaining sections of the ITS Plan, do not otherwise prohibit or restrict CGQ in exchange-listed securities.

Nasdaq believes that a contrary interpretation would be difficult to support both in the context of the ITS Plan as a whole and in the context of past experience. According to Nasdaq, it is hard to believe that if the signatories

<sup>3</sup> See Securities Exchange Act Release No. 47030 (December 18, 2002), 67 FR 78832 (December 26, 2002).

<sup>4</sup> See NASD IM-4613(c).

of the ITS Plan had actually intended to banish CGQ in exchange-listed securities entirely, they would have chosen to "bury" such a provision in Subsection 8(d)(ii) of the ITS Plan without any substantive discussion either in that Subsection or elsewhere within the document. Nasdaq notes that the ITS Plan runs for over a hundred pages, and that all of its important prohibitions and limitations on the ITS participants' conduct are carefully explained. Yet, according to Nasdaq, there is no section or subsection with the words "computer generated quoting" or "auto-quoting" in its title, there is no discussion whatsoever of this practice, and no substantive explanation or justification for banishing it is offered anywhere.

Nasdaq believes that there have always been public policy reasons to permit CGQ in exchange-listed securities. For example, Nasdaq states that beginning in February 2000 and every year thereafter, the Commission has granted the NASD an exemption to allow CGQ in ITS.<sup>5</sup> According to Nasdaq, each time the exemption was granted or extended, the Commission stated that, at least within the restrictions contained in the exemption, CGQ "is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system." Given these benefits of CGQ, Nasdaq does not believe that the ITS Plan could fairly or reasonably be construed as summarily prohibiting CGQ without any discussion.

Nasdaq believes that since CGQ does not automatically prevent the implementation of the trade-through rule, a total ban is not needed in order to implement the trade-through rule. For example, Nasdaq states that the trade-through rule is being observed even though CGQ in exchange-listed securities is currently permitted by Nasdaq (consistent with the Commission-granted exemptive relief referenced above). Nasdaq believes that this fact lends further support to its view of Subsection 8(d)(ii) of the ITS Plan as only prohibiting CGQ if and

when CGQ prevents trade-through rule implementation.

Over the past several years Nasdaq has advocated and supported amending the ITS Plan to clarify its language and put this issue to rest. Nasdaq proposed, and the ITS Operating Committee ("ITSOC") discussed and voted on a set of specific exceptions to a CGQ prohibition to be incorporated into the Plan. To date, no consensus for an amendment has been found.<sup>6</sup> Further, as time has passed and the markets have evolved, Nasdaq has come to believe, as it has mentioned at the last two ITSOC meetings, that there should be no restrictions on CGQ in the ITS Plan. It appears to Nasdaq that there are other exchanges participating in ITS that permit forms of CGQ without having requested an exemption from the Commission.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act<sup>7</sup> in general, and Section 15A(b)(6) of the Act,<sup>8</sup> which requires that the rules of the NASD foster cooperation and coordination with persons engaged in facilitating transactions in securities and remove impediments to and perfect the mechanism of a free and open market. Nasdaq believes that permitting market makers to use these systems should have several benefits. According to Nasdaq, market makers will be able to utilize existing computer models, or develop new models, to automatically generate and update their quotes, which should enhance the price discovery process and allow members to increase the number of stocks in which they are registered as market makers.

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

Nasdaq does not believe that the proposed rule change will 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 were neither solicited nor received.

## 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, as amended, 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-2004-107 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NASD-2004-107. 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. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All

<sup>5</sup> See e.g., letter from Alden S. Adkins, Commission, to Eugene A. Lopez, Nasdaq, dated December 31, 2002 (explaining Nasdaq's need for the exemption by stating that "[c]ertain ITS Participants interpret this section [Subsection 8(d)(ii) of the ITS Plan] as preventing Participants from employing automated quotation tracking systems that auto-quote for more than 100 shares"). It is Nasdaq's opinion that the Commission has viewed the exemption as a prophylactic measure needed to address the interpretations by certain unnamed participants.

<sup>6</sup> A unanimous vote is required to amend the ITS Plan. See Subsection 4(c) of the ITS Plan.

<sup>7</sup> 15 U.S.C. 78o-3.

<sup>8</sup> 15 U.S.C. 78o-3(b)(6).

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 File Number SR–NASD–2004–107 and should be submitted on or before November 2, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. E4–2571 Filed 10–8–04; 8:45 am]

BILLING CODE 8010–01–P

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3629]

#### State of Georgia (Amendment #1)

In accordance with a notice received from the Department of Homeland Security “Federal Emergency Management Agency—effective September 24, 2004, the above numbered declaration is hereby amended to include Dade, Miller, and Pickens as disaster areas due to damages caused by Hurricane Ivan occurring on September 14, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Decatur and Walker in the State of Georgia; DeKalb and Jackson Counties in the State of Alabama; and Hamilton and Marion Counties in the State of Tennessee may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have previously been declared.

The economic injury disaster number assigned to Tennessee is 9AD300.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 17, 2004 and for economic injury the deadline is June 20, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 30, 2004.

**Cheri L. Cannon,**

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04–22860 Filed 10–8–04; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF STATE

### [Public Notice 4857]

#### 60-Day Notice of Proposed Information Collection: DS–3035, J Visa Waiver Recommendation Application, OMB Control Number 1405–0135

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* J Visa Waiver Recommendation Application.
- *OMB Control Number:* 1405–0135.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* CA/VO.
- *Form Number:* DS–3035.
- *Respondents:* All J visa waiver applicants.
- *Estimated Number of Respondents:* 10,000 per year.
- *Estimated Number of Responses:* 10,000 per year.
- *Average Hours Per Response:* 2 hours.
- *Total Estimated Burden:* 20,000 hours per year.
- *Frequency:* Once per respondent.
- *Obligation to Respond:* Required to obtain or retain a benefit.

**DATES:** The Department will accept comments from the public up to 60 days from October 12, 2004.

**ADDRESSES:** Comments and questions should be directed to Brendan Mullarkey at the Department of State, Visa Office, who may be reached on 202–663–1166. You may submit comments by any of the following methods:

- E-mail: [mullarkeybp@state.gov](mailto:mullarkeybp@state.gov). You must include the DS form number (if applicable), information collection title, and OMB control number in the subject line of your message.
- Mail (paper, disk, or CD-ROM submissions): Department of State, Visa Office, 2401 E Street, NW., Washington, DC 20522–0106.
- Fax: 202–663–3897.

#### FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to

Brendan Mullarkey of the Office of Visa Services, U.S. Department of State, 2401 E St., NW., L–703, Washington, DC 20522, who may be reached at 202–663–1166 or [mullarkeybp@state.gov](mailto:mullarkeybp@state.gov).

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

*Abstract of Proposed Collection:* The form collects information from aliens applying for a waiver of the two-year residency requirement prescribed by INA Section 212(e).

*Methodology:* Form DS–3035 will be mailed to the Waiver Review Division of the State Department’s Visa Office.

Dated: September 27, 2004.

**Stephen A. Edson,**  
Acting Deputy Assistant Secretary of State for Visa Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 04–22855 Filed 10–8–04; 8:45 am]

BILLING CODE 4710–06–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### [Summary Notice No. PE–2004–77]

#### Petitions for Exemption; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA’s rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain dispositions of certain petitions previously received. The purpose of this notice is to improve the public’s awareness of, and participation in, this aspect of FAA’s regulatory activities.

**FOR FURTHER INFORMATION CONTACT:** Tim Adams (202) 267–8033, or Sandy Buchanan-Sumter (202) 267–7271, Office of Rulemaking (ARM–1), Federal

<sup>9</sup> 17 CFR 200.30–3(a)(12).