

and April 4, April 28, May 18, and June 28, 2011, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 26, 2011.

*No significant hazards consideration comments received:* No.

*Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas*

*Date of amendment request:* July 19, 2010, as supplemented by letters dated September 24 and November 24, 2010, and January 20, April 1, and April 14, 2011.

*Brief description of amendment:* The amendment approved the cyber security plan (CSP) and associated implementation schedule, and revised Paragraph 2.E of Renewed Facility Operating License No. NPF-42 to provide a license condition to require the licensee to fully implement and maintain in effect all provisions of the NRC-approved Cyber Security Plan. The proposed change is consistent with Nuclear Energy Institute (NEI) 08-09, Revision 6, "Cyber Security Plan for Nuclear Power Reactors."

*Date of issuance:* July 27, 2011.

*Effective date:* This license amendment is effective as of the date of its issuance. The implementation of the CSP, including the key intermediate milestone dates and the full implementation date, shall be in accordance with the implementation schedule submitted by the licensee on April 1, 2011, and approved by the NRC staff with this license amendment. All subsequent changes to the NRC-approved CSP implementation schedule will require prior NRC approval pursuant to 10 CFR 50.90.

*Amendment No.:* 197.

*Renewed Facility Operating License No. NPF-42.* The amendment revised the Operating License.

*Date of initial notice in Federal Register:* October 12, 2010 (75 FR 62607). The supplemental letters dated September 24 and November 24, 2010, and January 20, April 1, and April 14, 2011, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration

determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 27, 2011.

*No significant hazards consideration comments received:* No.

Dated at Rockville, Maryland this 28th day of July 2011.

For the Nuclear Regulatory Commission.

**Louise Lund,**

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

[FR Doc. 2011-19775 Filed 8-8-11; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2011-0006]

### Sunshine Federal Register Notice

**AGENCY HOLDING THE MEETINGS:** Nuclear Regulatory Commission.

**DATE:** Weeks of August 8, 15, 22, 29, September 5, 12, 2011.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

#### Week of August 8, 2011

There are no meetings scheduled for the week of August 8, 2011.

#### Week of August 15, 2011—Tentative

There are no meetings scheduled for the week of August 15, 2011.

#### Week of August 22, 2011—Tentative

There are no meetings scheduled for the week of August 22, 2011.

#### Week of August 29, 2011—Tentative

*Tuesday, August 30, 2011*

9 a.m. Information Briefing on Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) Related Activities (Public Meeting) (Contact: Aida Rivera-Varona, 301-251-4001)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

#### Week of September 5, 2011—Tentative

There are no meetings scheduled for the week of September 5, 2011.

#### Week of September 12, 2011—Tentative

There are no meetings scheduled for the week of September 12, 2011.

\* \* \* \* \*

\*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292.

Contact person for more information: Rochelle Baval, (301) 415-1651.

\* \* \* \* \*

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/public-involve/public-meetings/schedule.html>.

\* \* \* \* \*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301-415-6200, TDD: 301-415-2100, or by e-mail at [william.dosch@nrc.gov](mailto:william.dosch@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

\* \* \* \* \*

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969), or send an e-mail to [darlene.wright@nrc.gov](mailto:darlene.wright@nrc.gov).

Dated: August 4, 2011.

**Rochelle C. Baval,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2011-20257 Filed 8-5-11; 11:15 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2011-0176]

### NRC Enforcement Policy

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Solicitation of comments on proposed revisions.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is soliciting written comments from interested parties, including public interest groups, States, members of the public, and the regulated industry (*i.e.*, reactor and materials licensees, vendors, and contractors), on construction-related topics addressed in this notice that the NRC staff is evaluating for discussion in an upcoming Commission paper that will include recommended revisions to the NRC Enforcement Policy. As such, this request for comments is intended to assist the NRC in revising its Enforcement Policy and adequately responding to the Commission's request,

described below. The NRC will also host a public meeting to solicit public comments on these construction related proposed revisions to the Enforcement Policy. The topics discussed in this notice are not intended to represent all the potential changes in the next revision of the Enforcement Policy. Before submitting the next Enforcement Policy revision to the Commission for approval, the staff intends to solicit comments on other topics.

**DATES:** Submit comments on or before September 8, 2011. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before the specified date.

**ADDRESSES:** Please include Docket ID NRC-2011-0176 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2011-0176. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

- *Fax comments to:* RADB at 301-492-3446.

You can access publicly available documents related to this document using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555

Rockville Pike, Rockville, Maryland 20852.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The Enforcement Policy is available electronically under ADAMS Accession Number ML093480037.

- *Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0176.

**FOR FURTHER INFORMATION CONTACT:**

Carolyn Faria, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-4050, e-mail to [carolyn.faria-ocasio@nrc.gov](mailto:carolyn.faria-ocasio@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Commission, in SRM-SECY-09-0190, dated August 27, 2010 (ADAMS accession number ML102390327), approved a major revision to its Enforcement Policy. The NRC published a notice (75 FR 60485) announcing an effective date of September 30, 2010, for that revision to the Policy. The Commission, in SRM-SECY-09-0190, also directed the NRC staff (the staff) to reevaluate the portions of the Enforcement Policy associated with construction activities (e.g., reactor or uranium enrichment plants), including under what conditions enforcement discretion could be applied to cases involving the holder of a Limited Work Authorization (LWA) or Combined License (COL). In addressing those topics identified by the Commission, the staff developed a number of approaches that the staff believes appropriate to present collectively to the Commission for its consideration for possible inclusion in the next Enforcement Policy revision. What follows in **bold italics** is the proposed wording for proposed changes to the Enforcement Policy along with background on those topics evaluated by the staff. When appropriate and necessary, the staff also

discusses potential regulatory issues associated with a particular topic.

**Item 1: Revise Policy Sections for Clarity**

*(A) Section 1.2, Applicability:*

As new last paragraphs in the section, add the following:

***It is NRC policy to hold licensees, certificate holders, and applicants responsible for the acts of their employees, contractors, or vendors and their employees, and the NRC may cite the licensee, certificate holder, or applicant for violations committed by its employees, contractors, or vendors and their employees.***

***The NRC may use the term "licensee" in this Policy when referring to enforcement; however, in most situations the term is applied broadly for any of the above entities. In some situations, the NRC intends that the information applies narrowly, only to license holders. The context of the information described in the Policy will determine the usage of the term "licensee."***

The foregoing language was developed by staff to clarify the identity of responsible entities within the context of the Policy. However, the staff does not intend with this proposed language to change or alter any enforcement practice as currently implemented. The staff will ensure that the final policy revision reflects the scope of the term "licensee" in the glossary.

*(B) Section 2.2, Assessment Of Violations:*

In the first sentence of Section 2.2.1.a, revise the sentence to read: " \* \* \*, onsite or offsite radiation exposures, ***onsite or offsite chemical hazard exposures resulting from licensed or certified activities*** \* \* \*."

Add a new section, as follows:

**Section 2.2.6 Construction**

***In accordance with 10 CFR 50.10, no person may begin the construction of a production or utilization facility on a site on which the facility is to be operated until that person has been issued either a construction permit under 10 CFR part 50, a combined license under 10 CFR part 52, an early site permit authorizing the activities under 10 CFR 50.10(d), or a limited work authorization under 10 CFR 50.10(d). Further, any activities undertaken under the Changes***

during Construction (CdC) Preliminary Acceptance Review (PAR) Process, as developed in Interim Staff Guidance (ISG)-025, are at the risk of the licensee, and the licensee is obligated to return to the current licensing basis (CLB) if the related license amendment request (LAR) is subsequently not approved by the NRC.

Also, in accordance with 10 CFR 70.23(a)(7) and 10 CFR 40.32(e), commencement of construction before the NRC finishes its environmental review and issues a license for processing and fuel fabrication, conversion of uranium hexafluoride, or uranium enrichment facility construction and operation is grounds for denial to possess and use special nuclear material in the plant or facility. Additionally, in accordance with 10 CFR 70.23(b), failure to obtain Commission approval for the construction of the principal structures, systems, and components of a plutonium processing and fuel fabrication plant before the commencement of construction may also be grounds for denial of a license to possess and use special nuclear material.

The revision to Section 2.2.1.a is to ensure consistency with the staff's current process to disposition violations related to chemical hazards exposures. The staff believes that the addition of Section 2.2.6 is necessary to broadly address when and how the assessment of violations during construction occur. The staff is currently developing the CdC PAR process, an elective precursor to the license amendment review, established via license condition. Comments on the CdC PAR process will be solicited under a separate FRN and will not be addressed under this FRN.

(C) Section 6.0, Violation Examples:

Add a second paragraph to the introduction of the section:

**Many examples are written to reflect the risks associated with the use of radioactive or special nuclear materials. However, violations during construction generally occur before the nuclear material and its associated risk are present. Therefore, the NRC will consider the lower risk significance of violations that occur during construction in the areas of emergency preparedness, reactor operator licensing, and security and may reduce the severity level for those violations from that indicated by the examples in those areas. The staff must coordinate with the**

**Office of Enforcement before applying this lower risk significance concept for violations that occur during construction.**

The staff developed this paragraph to recognize that although certain rules (i.e., requirements for emergency preparedness, reactor operator licensing, and security) apply generally during construction activities, flexibility is needed to factor in the lower risk associated with certain violations that occur during construction. The staff believes that any applicable violation examples in the remaining sections would not likely warrant mitigation during construction solely because there is not nuclear material on site.

**Item 2: Revise the Current Section 2.3, Disposition of Violations**

Section 2.3.2 provides the Policy on use of non-cited violations as a method of dispositioning Severity Level IV violations. The staff proposes to revise this section as follows:

**Section 2.3.2, Non-cited Violation**

If certain criteria (described below) are met, Severity Level IV (SL IV) violations and violations associated with green ROP findings (**for operating reactors**) are normally dispositioned as non-cited violations (NCVs). Inspection reports or inspection records document NCVs and briefly describe the corrective action the licensee has taken or plans to take, if known. Licensees are not required to provide written responses to NCVs; however, they may provide a written response if they disagree with the NRC's description of the NCV and/or dispute the validity of the NCV. Typically all of the criteria described in either 2.3.2.a. or b. must be met for the disposition of a violation as an NCV.

**For all SL IV violations identified by the NRC at fuel cycle facilities (under construction or in operation) in accordance with 10 CFR part 70 or 10 CFR part 40 and reactors under construction in accordance with 10 CFR part 50 or 10 CFR part 52, before the NRC determines that an adequate corrective action program has been implemented, the NRC normally issues a Notice of Violation. Until the determination that an adequate corrective action program has been implemented, NCVs may be issued for licensee/applicant-identified SL IV violations if the NRC has determined that the applicable criteria in 2.3.2.b. below are met:**

a. Power Reactor Licensees

1. The licensee must place the violation into a corrective action

program to **restore compliance and** address recurrence.

**(Delete current footnote—"For reactor facilities under construction in accordance with 10 CFR part 52, the corrective action program must have been demonstrated to be adequate.")**

2. (Unchanged)

3. The violation must either not be repetitive as a result of inadequate corrective action, or, if repetitive, the violation must not be NRC identified. This criterion does not apply to violations associated with green ROP findings. **Delete the rest of the criteria: "AND VIOLATIONS ASSOCIATED WITH FACILITY CONSTRUCTION UNDER 10 CFR PART 50, 'DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES,' AND 10 CFR PART 52, 'LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS.'"**

4. (Unchanged)

b. All Other Licensees (Unchanged)

Of note regarding this topic, on June 3, 2011, the NRC issued EGM-11-002, "Enforcement Discretion for Licensee-Identified Violations at Power Reactor Construction Sites Pursuant to Title 10 of the Code of Federal Regulations [10 CFR] part 52" (ADAMS Accession No. ML11152A065). The purpose of this enforcement guidance memorandum is to clarify the guidance for exercising enforcement discretion when the staff dispositions as NCVs those SL IV violations identified by licensees/applicants at power reactors that are under construction. To encourage prompt identification and prompt comprehensive correction of violations at reactor construction sites, the staff is authorized to disposition licensee/applicant-identified SL IV violations as NCVs before the agency determines that the licensee's/applicant's corrective action program (CAP) has been demonstrated to be adequate. For reactors, a method that NRC has found acceptable to determine adequacy of the CAP is for the licensee to commit to and comply with the requirements established by Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities." For fuel cycle facilities, the NRC is considering criteria for determining the adequacy of a fuel cycle licensee's CAP. In addition, the remaining criteria of Section 2.3.2.a of the NRC Enforcement Policy must be met, and the licensee must correct, or document its intent to take specific actions to correct, the violation within a reasonable time by the end of the NRC inspection activity,

including both immediate corrective action and any necessary action(s) to reasonably prevent recurrence. EGM-11-002 will be superseded with implementation of this portion of the Policy revision.

SRM-09-0190, Item 1.f requires staff to “propose revisions to provide fuel cycle licensees with credit for effective corrective actions programs”. The staff acknowledges that further work being done to address Item 1.f of SRM-09-0190 has the potential to generate additional changes to this section of the Policy. The staff will ensure that the final policy revision is coordinated to reflect both initiatives.

### Item 3: Revise Policy Sections on Enforcement Discretion

#### A) Section 3.8, Notices of Enforcement Discretion for Operation Power Reactors and Gaseous Diffusion Plants:

Add a footnote to the section title that states: ***“NOEDs will not be used at reactors during construction before the Commission’s 10 CFR 52.103(g) or 10 CFR 50.57 finding, as applicable.”***

The staff considered development of an NOED process for use (1) After a COL is issued but prior to the 10 CFR 52.103(g) finding (after which point, the licensee’s Technical Specifications are in effect), (2) after the issuance of a construction permit pursuant to 10 CFR 50.50 but prior to the 10 CFR 50.57 operations finding, and (3) after the issuance of an LWA but prior to the issuance of a COL. The Enforcement Policy states, in part, that:

The NRC may choose not to enforce the applicable technical specification (TS) limiting condition for operation (LCO) or other license conditions, in circumstances where compliance would involve an unnecessary plant transient or the performance of a test, inspection, or system realignment that may not be the most prudent action to take under the specific plant conditions, or unnecessary delays in plant startup, without a corresponding health and safety benefit \* \* \*.

The NRC will issue a notice of enforcement discretion (NOED) only if the staff is clearly satisfied that the action is consistent with protecting the public health and safety or security. The NRC staff may also grant enforcement discretion in cases involving severe weather or other natural phenomena, based upon balancing the public health and safety or common defense and security of not operating against the potential radiological or other hazards associated with continued operation, and a determination that safety will not be impacted unacceptably by exercising this discretion \* \* \*.

Consequently, the NOED policy in its current form is predicated upon the expectation that public health and

safety will be *enhanced* by the granting of an NOED. In considering the time periods associated with the three situations under consideration, the staff has not identified any plausible scenarios where the risk to public health and safety (or security) would be exacerbated by the failure of the NRC to grant such a licensee or permit holder a NOED.

Moreover, the NOED process, as applied to operating reactors, involves, in essence, a preemptive request by a licensee and an associated preemptive determination by the NRC to permit the licensee to exceed technical specifications limiting conditions for operations. However, technical specifications limiting conditions for operation are not applicable to new reactors under construction until issuance of the operating license under 10 CFR part 50 or the 10 CFR 52.103(g) Commission determination under 10 CFR part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants.” As such, under the current NOED policy paradigm, the staff does not believe it appropriate to use the NOED process for any of the situations under consideration.

With that said, the staff could consider a new paradigm for the granting of NOEDs to COL holders during construction, one premised upon a finding that no adverse impact, or risk increase, to public health and safety, security, or the environment would occur over the period of time enforcement discretion was applied.

However, the staff believes the CdC process, described in more detail in Item 3.B, will provide an appropriate licensing-based change process that will address the vast majority of issues identified during construction, by allowing licensees to effect changes in parallel with staff’s review of the acceptability of the change.

In addition, the staff considered the development of a NOED-like process during construction under a Limited Work Authorization (LWA). However, given the limited use of LWAs and their narrow scope, the staff believes that development of an NOED process at this time would require expenditure of resources that would not be commensurate with the benefit.

#### B) Add a New Section for Enforcement Discretion

Add a new Section 3.9 that states the following:

### **Section 3.9, Violations Involving Certain Construction Issues**

#### **a. Fuel Cycle Facilities** **The NRC may choose to exercise discretion for fuel cycle facilities**

***under construction (construction is defined in 10 CFR 40.4 for source material licensees and in 10 CFR 70.4 for special nuclear material licensees) based on the general enforcement discretion guidance contained in Section 3 of this Enforcement Policy.***

***b. LWA holders***  
***The NRC may exercise discretion for LWA holders during construction using the general enforcement discretion guidance in Section 3 of the Enforcement Policy.***

#### ***c. COL Holders (Reactor Facilities)***

***The NRC may reduce or refrain from issuing an NOV/NCV for a violation associated with an unplanned change that deviates from the licensing basis that is implemented during construction<sup>1</sup> without prior NRC approval (in the form of a license amendment) when all of the following criteria are met:***

- The licensee identifies changes implemented during construction not previously approved by the NRC that the staff would otherwise disposition as a Severity Level IV violation of NRC requirements<sup>2</sup>,***
- The licensee submits the necessary information to the NRC so that it can conduct a timely evaluation of the change as part of the license amendment review process, and***

- Either (1) the cause of the deviation was not within the licensee’s control, such that the change was not avoidable by reasonable licensee quality assurance measures or management controls, or (2) the licensee placed the cause of the change in its corrective action program to ensure comprehensive corrective actions to address recurrence.***

***For similar issues not identified by the licensee, the NRC may refrain from issuing an NOV/NCV on a case-by-case basis depending upon the circumstances of the issue, such as whether the requirements were clearly understood or should have***

<sup>1</sup> The NRC may issue enforcement action for the cause of these unplanned changes, such as a failure to implement appropriate work controls or quality control measures, or a failure to adhere to procedures, processes, instructions, or standards that implement NRC requirements. This enforcement may be appropriate for the actions that led to the CdC issue.

<sup>2</sup> NRC-identified violations that result in a “use as built” determination or a resultant unplanned change or both will normally be dispositioned as a cited or non-cited violation, whether or not the unplanned change issue is resolved by a subsequently approved license amendment.

*been understood at the time, the cause of the issue, and why the licensee did not identify the issue.*

*In all such cases when a licensee determines that an unplanned change during construction associated with a violation of requirements meets the above-outlined criteria and timely submits the necessary information for NRC evaluation, the licensee's continued failure to meet the current licensing basis will not be treated as a willful or continuing violation while NRC reviews the submittal. (Note: If NRC subsequently denies a requested license amendment change, or if the NRC requires additional measures to be taken for the change to be considered acceptable, then a separate NOV or order may be issued to ensure appropriate corrective actions, including restoring the configuration to the current licensing basis are taken).*

The staff is currently developing the CdC PAR process including the development of interim staff guidance and the endorsement of industry guidance. The purpose of the CdC PAR process is, as an elective precursor to the license amendment review established by a condition of license, to determine if the NRC has any objection to the licensee proceeding with construction activities different from the licensing basis while the NRC is evaluating the related license amendment request. The NRC will not issue violations for licensee-planned changes properly entered into the CdC PAR process. Comments on CdC are being solicited under a separate FRN and will not be addressed under this FRN.

#### Procedural Requirements

##### *Paperwork Reduction Act*

This policy statement does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), approval number 3150-0136.

##### *Public Protection Notification*

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

##### *Congressional Review Act*

In accordance with the Congressional Review Act of 1996, the NRC has

determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs.

For the Nuclear Regulatory Commission.  
Dated at Rockville, MD, this 27th day of July 2011.

**Roy Zimmerman,**

Director, Office of Enforcement.

[FR Doc. 2011-20112 Filed 8-8-11; 8:45 am]

BILLING CODE 7590-01-P

## POSTAL REGULATORY COMMISSION

[Docket No. A2011-36; Order No. 787]

### Post Office Closing

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** This document informs the public that an appeal of the closing of the Hoxie, Iowa post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

**DATES:** *Administrative record due (from Postal Service):* August 15, 2011; *deadline for notices to intervene:* August 29, 2011. See the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

**ADDRESSES:** Submit comments electronically by accessing the "Filing Online" link in the banner at the top of the Commission's Web site (<http://www.prc.gov>) or by directly accessing the Commission's Filing Online system at <https://www.prc.gov/prc-pages/filing-online/login.aspx>. Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at 202-789-6820 (case-related information) or [DocketAdmins@prc.gov](mailto:DocketAdmins@prc.gov) (electronic filing assistance).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, pursuant to 39 U.S.C. 404(d), on July 29, 2011, the Commission received a petition for review of the Postal Service's determination to close the post office in Hoxie, Arkansas. The petition was filed by Lanny Tinker, Mayor of the city of Hoxie (Petitioner) and is postmarked July 22, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2011-36 to consider Petitioner's

appeal. If Petitioner would like to further explain his position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than September 2, 2011.

*Categories of issues apparently raised.* Petitioner contends that: (1) The Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (see 39 U.S.C. 404(d)(2)(A)(iii)); (2) The Postal Service failed to consider the effect of the closing on the community (see 39 U.S.C. 404(d)(2)(A)(i); and (3) the Postal Service failed to adequately consider the economic savings resulting from the closure (see 39 U.S.C. 404(d)(2)(A)(iv)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record with the Commission is August 15, 2011. See 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service to this notice is August 15, 2011.

*Availability; Web site posting.* The Commission has posted the appeal and supporting material on its Web site at <http://www.prc.gov>. Additional filings in this case and participants' submissions also will be posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at 202-789-6873 or via electronic mail at [prc-webmaster@prc.gov](mailto:prc-webmaster@prc.gov).

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at [prc-dockets@prc.gov](mailto:prc-dockets@prc.gov) or via telephone at 202-789-6846.

*Filing of documents.* All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, <http://www.prc.gov>, unless a waiver is obtained. See 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or