

present evidence and cross-examine witnesses.

A request for a hearing and petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to Mr. Jay Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendments dated December 11, 2000, as supplemented by letters dated March 6, June 5, July 3, August 13, August 29, October 15, November 12, and December 12, 2001, and January 25, January 31, February 14, February 15, February 16, March 6, April 11, May 10, May 30, and June 7, 2002, which is

available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (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, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 18th day of June, 2002.

For the Nuclear Regulatory Commission.

**Tae Kim,**

*Senior Project Manager, Section I, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 02-15988 Filed 6-24-02; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-395]**

### **South Carolina Electric & Gas Company, South Carolina Public Service Authority; Notice of Consideration of Issuance of Amendment To Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-12 issued to South Carolina Electric & Gas Company (the licensee) for operation of the Virgil C. Summer Nuclear Station, Unit No. 1 (VCSNS), located in Fairfield County, South Carolina.

The proposed amendment would increase the pool capacity by replacing all 11 existing rack modules with 12 new high density storage racks.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10

of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

South Carolina Electric & Gas Company (SCE&G) has evaluated the proposed changes to the VCSNS TS [Technical Specifications] described above against the Significant Hazards Criteria of 10 CFR 50.92 and has determined that the changes do not involve any significant hazard. The following is provided in support of this conclusion.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

In the analysis of the safety issues concerning the expanded pool storage capacity, the following previously postulated accident scenarios have been considered:

- a. A spent fuel assembly drop in the Spent Fuel Pool
- b. Loss of Spent Fuel Pool cooling flow
- c. A seismic event
- d. Misloaded fuel assembly

The probability that any of the accidents in the above list can occur is not significantly increased by the modification itself. The probabilities of a seismic event or loss of Spent Fuel Pool cooling flow are not influenced by the proposed changes. The probabilities of accidental fuel assembly drops or misloadings are primarily influenced by the methods used to lift and move these loads. The method of handling loads during normal plant operations is not significantly changed, since the same equipment (i.e., Spent Fuel Bridge Crane) and procedures will be used. Since the methods used to move loads during normal operations remain nearly the same as those used previously, there is no significant increase in the probability of an accident.

During rack removal and installation, all work in the pool area will be controlled and performed in strict accordance with specific written procedures. Any movement of fuel assemblies required to be performed to support the modification (e.g., removal and installation of racks) will be performed in the same manner as during normal fuel handling operations. Shipping cask movements will not be performed during the modification period.

Accordingly, the proposed modification does not involve a significant increase in the probability of an accident previously evaluated.

The consequences of the previously postulated scenarios for an accidental drop of a fuel assembly in the Spent Fuel Pool have been re-evaluated for the proposed change. The results show that the postulated accident

of a fuel assembly striking the top of the storage racks will not distort the racks sufficiently to impair their functionality. The minimum subcriticality margin,  $K_{\text{eff}}$  less than or equal to 0.95, will be maintained. The structural damage to the Fuel Handling Building, pool liner, and fuel assembly resulting from a fuel assembly drop striking the pool floor or another assembly located within the racks is primarily dependent on the mass of the failing object and the drop height. Since these two parameters are not changed by the proposed modification, the postulated structural damage to these items remains unchanged. The radiological dose at the exclusion area boundary will increase due to the changes in in-core hold time and burnup. The previously calculated doses to thyroid and whole body were 10.6 and 0.52 rem, respectively. The new Exclusion Area Boundary (EAB) thyroid and whole body doses based on the proposed change will be 12.97 and 0.678 rem, respectively. These dose levels will remain "well within" the levels required by 10 CFR 100, paragraph 11, as defined in Section 15.7.4.11.1 of the Standard Review Plan. Therefore, the increase in dose is not considered a significant increase in consequence.

The consequences of the previously postulated scenarios for an accidental drop of a fuel assembly in the Reactor Building have also been re-evaluated for the proposed change to assess the affect of higher burnup and shorter cooling time. The proposed re-racking does not affect the fuel assembly mass or drop height parameters. Therefore, the previously determined fuel damage and resulting criticality assessments remain unchanged. However, the radiological dose at the exclusion area boundary will increase due to the changes in in-core hold time and burnup. The previously calculated doses to thyroid were 211 rem. With no action to limit the consequences of the fuel handling accident in the reactor building, the new EAB thyroid dose would be 259 rem. The whole-body would be the same as the doses for the accident in the fuel handling building, since those doses are caused by radionuclides that, in the Fuel-Handling-Building accident, were not affected by the charcoal filters in the building exhaust. This hypothetical thyroid dose would be higher than the criterion of the Standard Review Plan. However, as described in Section 15.4.5.1.4 of the VCSNS FSAR [Final Safety Analysis Report] instrumentation is available to detect the release of radioactivity and to close the Reactor Building Purge System. This action essentially precludes any radioactive release to the environment for this accident. Thus, the results of the postulated fuel drop accidents remain acceptable and do not represent a significant increase in consequences from any of the same previously evaluated accidents that have been reviewed and found acceptable by the NRC.

The consequences of a loss of Spent Fuel Pool cooling have been evaluated and found to have no increase. The concern with this accident is a reduction of Spent Fuel Pool water inventory from bulk pool boiling resulting in uncovering fuel assemblies. This situation could lead to fuel failure and

subsequent significant increase in offsite dose. Loss of spent fuel pool cooling at V.C. Summer is mitigated in the usual manner by ensuring that a sufficient time lapse exists between the loss of forced cooling and uncovering fuel. This period of time is compared against a reasonable period to reestablish cooling or supply an alternative water source. Evaluation of this accident usually includes determination of the time to boil. This time period is much less than the onset of any significant increase in offsite dose, since once boiling begins it would have to continue unchecked until the pool surface was lowered to the point of exposing active fuel. The time to boil represents the onset of loss of pool water inventory and is commonly used as a gage for establishing the comparison of consequences before and after a reracking project. The heat up rate in the Spent Fuel Pool is a nearly linear function of the fuel decay heat load. The fuel decay heat load will increase subsequent to the proposed changes because of the increase in the number of assemblies, shorter hold times, and higher fuel burn-ups. The thermal-hydraulic analysis determined that the minimum time to boil is more than two hours subsequent to complete loss of forced cooling and a minimum of 24 hours between loss of forced cooling and a drop of water level to within 10 feet of the top of the racks. In the unlikely event that all pool cooling is lost, sufficient time will still be available subsequent to the proposed changes for the operators to provide alternate means of cooling before the water shielding above the top of the racks falls below 10 feet. Therefore, the proposed change represents no increase in the consequences of loss of pool cooling.

The consequences of a design basis seismic event are not increased. The consequences of this accident are evaluated on the basis of subsequent fuel damage or compromise of the fuel storage or building configurations leading to radiological or criticality concerns. The new racks have been analyzed in their new configuration and found safe during seismic motion. Fuel has been determined to remain intact and the storage racks maintain the fuel and fixed poison configurations subsequent to a seismic event. The structural capability of the pool and liner will not be exceeded under the appropriate combinations of dead weight, thermal, and seismic loads. The Fuel Handling Building structure will remain intact during a seismic event and will continue to adequately support and protect the fuel racks, storage array, and pool moderator/coolant. Thus, the consequences of a seismic event are not increased.

Fuel misloading accidents were previously postulated occurrences. The consequence of this type of accident has been analyzed for the worst possible storage configuration subsequent to the proposed modification and it has been shown that the consequences remain acceptable with respect to the same criteria used previously. Therefore, there is no increase in consequences.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

To assess the possibility of new or different kind of accidents, a list of the important

parameters required to ensure safe fuel storage was established. Safe fuel storage is defined here as providing an environment which would not present any significant threats to workers or the general public. In other words, meeting the requirements of 10 CFR 100 and 10 CFR 20. Any new events, which would modify these parameters sufficiently to place them outside of the boundaries analyzed for normal conditions and/or outside of the boundaries previously considered for accidents, would be considered a new or different accident. The criticality and radiological safety evaluations were reviewed to establish the list of important parameters. The fuel configuration and the existence of the moderator/coolant were identified as the only two parameters important to safe fuel storage. Significant modification of these two parameters represents the only possibility of an unsafe storage condition. Once the two important parameters were established, an additional step was taken to determine what events (which were not previously considered) could result in changes to the storage configuration or moderator/coolant presence during or subsequent to the proposed changes. This process was adopted to ensure that the possibility of any new or different accident scenario or event would be identified.

Due to the proposed changes, an accidental drop of a rack module during construction activity in the pool was considered as the only event, which might represent a new or different kind of accident.

A construction accident of a rack dropping onto stored spent fuel or the pool floor liner is not a postulated event due to the defense-in-depth approach to be taken, as discussed in detail within Section 3.5 of the attached Licensing Report (Attachment V). A new temporary crane, hoist, and rack lifting rig will be introduced to remove the existing racks and install the new racks. These temporary lift items have been designed to meet the requirements of NUREG 0612 and ANSI N14.6. A rack drop event is commonly referred to as a "heavy load drop" over the pools. Racks will not be allowed to travel over any racks containing fuel assemblies, thus a rack drop onto fuel is precluded. A rack drop to the pool liner is not a postulated event, since all of the mechanical lifting components either provide redundancy in load path or are designed with safety margins greater than a factor of ten. All movements of heavy loads over the pool will comply with the applicable administrative controls and guidelines (i.e. plant procedures, NUREG 0612, etc.). Nevertheless, the analysis of a rack dropping to the liner has been performed and shown to be acceptable. A rack drop would not alter the storage configuration or moderator/coolant presence. Therefore, the rack drop does not represent a new or different kind of accident.

The proposed change does not alter the operating requirements of the plant or of the equipment credited in the mitigation of the design basis accidents. The proposed change does not affect any of the important parameters required to ensure safe fuel storage. Therefore, the potential for a new or previously unanalyzed accident is not created.

3. Does this change involve a significant reduction in margin of safety?

The function of the Spent Fuel Pool is to store the fuel assemblies in a subcritical and coolable configuration through all environmental and abnormal loadings, such as an earthquake or fuel assembly drop. The new rack design must meet all applicable requirements for safe storage and be functionally compatible with the Spent Fuel Pool.

SCE&G has addressed the safety issues related to the expanded pool storage capacity in the following areas:

1. Material, mechanical and structural considerations.
2. Nuclear criticality.
3. Thermal-hydraulic and pool cooling.

The mechanical, material, and structural designs of the new racks have been reviewed in accordance with the applicable provisions of the NRC Guidance entitled, "OT Position for Review and Acceptance of Spent Fuel Storage and Handling Applications". The rack materials used are compatible with the spent fuel assemblies and the Spent Fuel Pool environment. The design of the new racks preserves the proper margin of safety during abnormal loads such as a dropped assembly and tensile loads from a stuck assembly. It has been shown that such loads will not invalidate the mechanical design and material selection to safely store fuel in a coolable and subcritical configuration.

The methodology used in the criticality analysis of the expanded Spent Fuel Pool meets the appropriate NRC guidelines and the ANSI standards (GDC 62, NUREG 0800, Section 9.1.2, the OT Position for Review and Acceptance of Spent Fuel Storage and Handling Applications, Reg. Guide 1.13, and ANSI ANS 8.17). The margin of safety for subcriticality is maintained by having the neutron multiplication factor equal to, or less than, 0.95 under all normal storage, fuel handling, and accident conditions, including uncertainties.

An additional Technical Specification has been added to require a minimum of 500 ppm boron whenever new or irradiated fuel is being moved (non-refueling movement) in the spent fuel pool, fuel transfer canal, or cask loading pit. This minimum boron concentration will ensure that the fuel remains subcritical under any normal fuel handling or misloading/mispositioning accidents.

The criterion of having the neutron multiplication factor equal to, or less than, 0.95 during storage or fuel movement is the same as that used previously to establish criticality safety evaluation acceptance. Therefore, the accepted margin of safety remains the same.

The thermal-hydraulic and cooling evaluation of the pool demonstrated that the pool can be maintained below the specified thermal limits under the conditions of the maximum heat load and during all credible accident sequences and seismic events. The pool temperature will not exceed 170°F during the worst single failure of a cooling pump. The maximum local water temperature in the hot channel will remain below the boiling point. The fuel will not undergo any significant heat up after an

accidental drop of a fuel assembly on top of the rack blocking the flow path. A loss of cooling to the pool will allow sufficient time (24 hours) for the operators to intervene and line up alternate cooling paths and the means of inventory make-up before the water shielding above the top of the racks falls below 10 feet. The thermal limits specified for the evaluations performed to support the proposed change are the same as those which were used in the previous evaluations. Therefore, the accepted margin of safety remains the same.

Thus, it is concluded that the changes do not involve a significant reduction in the margin of safety.

The NRC has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (51 FR 7751, March 6, 1986) of amendments that are considered not likely to involve a SHC [Significant Hazards Considerations]. The proposed changes for V.C. Summer are similar to Example (x): an expansion of the storage capacity of Spent Fuel Pool when all of the following are satisfied:

(1) The storage expansion method consists of either replacing existing racks with a design that allows closer spacing between stored spent fuel assemblies or placing additional racks of the original design on the pool floor if space permits.

The V.C. Summer reracking modification involves replacement of the existing racks with a design that will allow closer spacing of the stored fuel assemblies. Also includes installing one new rack in the existing space in the NE corner of the spent fuel pool.

(2) The storage expansion method does not involve rod consolidation or double tiers.

The V.C. Summer reracking does not involve fuel consolidation. The racks will not be double tiered; no fuel assemblies will be stored above other assemblies.

(3) The  $K_{eff}$  of the pool is maintained less than, or equal to, 0.95.

The design of the new racks integrates a neutron absorber, Boral, within the racks to allow closer storage of spent fuel assemblies while ensuring that  $K_{eff}$  remains less than 0.95 under all conditions. Additionally, the water in the Spent Fuel Pool does contain boron as further assurance that  $K_{eff}$  remains less than 0.95.

(4) No new technology or unproven technology is utilized in either the construction process or the analytical techniques necessary to justify the expansion.

The rack vendor has successfully participated in the licensing of numerous other racks of a similar design. The construction process and the analytical techniques of the V.C. Summer pool expansion are substantially the same as in the other completed rerack projects. Thus, no new or unproven technology is used in the V.C. Summer reracking.

Pursuant to 10 CFR 50.91, the preceding analyses provides a determination that the proposed Technical Specifications change poses no significant hazard as delineated by 10 CFR 50.92.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 25, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for

Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714,<sup>1</sup> which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdrr@nrc.gov](mailto:pdrr@nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should

also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov). A copy of the petition for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to Thomas G. Eppink, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties."

The hybrid procedures in section 134 provide for oral argument on matters in

<sup>1</sup> The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.741(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: "In all other circumstances, such ruling body or officer shall, in ruling on—

(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things:

(i) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

(2) The admissibility of a contention, refuse to admit a contention if:

(i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or

(ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief."

controversy, preceded by discovery under the Commission's rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NHPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

For further details with respect to this action, see the application for amendment dated July 24, 2001, which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (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, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 21st day of June 2002.

For the Nuclear Regulatory Commission.

**Karen R. Cotton,**

*Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management.*

[FR Doc. 02-16097 Filed 6-24-02; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

#### I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from May 31, 2002, through June 13, 2002. The last biweekly notice was published on June 11, 2002 (67 FR 40019).

#### Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a

margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By July 25, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should