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UNITED STATES NUCLEAR REGULATORY COMMISSION

POWER AUTHORITY OF THE STATE OF NEW YORK

DOCKET NO. 50-333

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The U. S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-59, issued to the Power Authority of the State of New York (the licensee), for operation of the FitzPatrick Nuclear Power Plant, located in Oswego County, New York.

The proposed amendment would revise the Technical Specifications (TS) pertaining to the following TMI Action Plan Items set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements" and as requested by the staff's Generic Letters 83-02 and 83-36:

- I.A.1.3 Shift Manning
- II.K.3.3 Report Safety and Relief Valve Failures and Challenges
- II.B.3 Post-Accident Sampling
- II.F.1.1 Noble Gas Effluent Monitors
- II.F.1.2 Sampling and Analysis of Plant Effluents
- II.F.1.3 Containment High-Range Monitor
- II.F.1.4 Containment Pressure Monitor
- II.F.1.5 Containment Water Level Monitor
- II.F.1.6 Containment Hydrogen Monitor

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Initially the Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing addressing these issues was published on November 19, 1986 (51 FR 41866). This notice was based on information supplied by the licensee dated December 6, 1984, as supplemented October 20, 1986.

However, in order to more fully address some of the NUREG-0737 issues listed above, the licensee has submitted a letter dated October 18, 1985. This letter responds to questions raised by the NRC staff regarding justification where the licensee's position on proposed changes differed from the guidance provided in Generic Letter 83-36 and is the subject of this notice.

Specifically, the submittal transmitted supplementary information concerning the following NUREG-0737 Items which are not addressed by the other submittals:

- a) Item II.F.1.3 Containment High-Range Radiation Monitor: The NUREG-0737 guidance states that two channels remain operable. The TS change proposed by the licensee would require that one out of two channels must remain operable.
- b) Item II.F.1.4 Containment Pressure Monitor and Item II.F.1.5 Containment Water Level Monitor: The NUREG-0737 guidance states that two channels for each parameter remain operable or an inoperable channel be restored to service within seven days or the plant shutdown within seven days. The TS change proposed by the licensee would require that the inoperable channel be restored in 30 days or either an alternate monitoring method be initiated or the plant shutdown in 48 hours.

- c) Item II.F.1.6 Containment Hydrogen Monitor: The NUREG-0737 guidance states that two channels should remain operable and that if both are lost, the plant must be shutdown within seven days. The TS change proposed by the licensee would require that the inoperable channel be restored within 30 days or either an alternate monitoring method be initiated or the plant shutdown.

In each case, the proposed change is an enhancement over the present TS requirements.

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 provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a 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 previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information. For Items II.F.1.3, II.F.1.4, and II.F.1.5, the approach is consistent with the fact that plant equipment could be divided into three categories: (1) equipment necessary to prevent an accident; (2) equipment used to mitigate an accident;

(3) equipment used for monitoring during and following an accident. The TS is consistent with a "defense in depth" approach and is appropriate for monitoring equipment (the third category given above) which is used following a low probability accident. For Item II.F.1.6, the Containment Oxygen Monitor supplies redundant information for which there is a separate TS requirement and action statement for this instrumentation. In addition, the proposed action for all these statements are consistent with the action statements for other accident monitoring instrumentation (criteria which is also allowed by NUREG-0737). Therefore:

- (1) The proposed license amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated, because the proposed accident monitoring instrumentation does not affect previous accident probability analyses.
- (2) The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated, because no new mode of failure is introduced.
- (3) The proposed amendment would not involve a significant reduction in the margin of safety, because additional information provided to the operator following an accident would enhance the safety of the plant.

Based on the above reasoning, the licensee has determined that the proposed changes involve no significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination

and agrees with the licensee's analyses. Accordingly, the Commission proposes to determine that the requested amendment does not involve a 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. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U. S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the FEDERAL REGISTER notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By MAY 4 1989, 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 petition for leave to intervene. Requests for a hearing and petitions 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. 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 a 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 fifteen (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 fifteen (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, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. 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 effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

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 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.

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, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, N.W., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Capra: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this FEDERAL REGISTER notice. A copy of the petition should also be sent to the Office of the General Counsel, U. S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019, 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 Atomic

Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 6, 1984 supplemented October 18, 1985 and October 20, 1986 which are available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, DC 20555, and at the State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Dated at Rockville, Maryland, this 29th day of March .

FOR THE NUCLEAR REGULATORY COMMISSION



Robert A. Capra, Director
Project Directorate I-1
Division of Reactor Projects I/II
Office of Nuclear Reactor Regulation