

November 29, 1988

Docket No. 50-333

Mr. John C. Brons
Executive Vice President, Nuclear Generation
Power Authority of the State of New York
123 Main Street
White Plains, New York 10601

DISTRIBUTION

<u>Docket file</u>	NRC PDR
Local PDR	PDI-1 Rdg
SVarga	BBoger
CVogan	RCapra
DLaBarge	OGC
DHagan	EJordan
RGrimes	TBarnhart (4)
WJones	EButcher
ACRS (10)	GPA/PA
ARM/LFMB	JJohnson, RI

Dear Mr. Brons:

SUBJECT: JAMES A. FITZPATRICK NUCLEAR POWER PLANT - PRIMARY
CONTAINMENT LEAK RATE TESTS (TAC 71135)

The NRC staff has forwarded the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination" to the Office of the Federal Register for publication.

This notice relates to your November 9, 1988 application to eliminate two tests required by plant Technical Specifications during the 1988 refueling outage. These tests include, the requirement to perform a Type A primary containment integrated leak rate test and the requirement to perform a Type A, Type B, or Type C Leak Rate Test following replacement of the turbine exhaust line manual block valve in the high pressure coolant injection system. In order to allow plant restart without completing these tests, the NRC issued a Temporary Waiver of Compliance from the requirements of these two Technical Specifications on November 18, 1988. That waiver will remain in effect until the staff completes its review of your application.

Sincerely,

Scott Alexander McNeil for

David E. LaBarge, Project Manager
Project Directorate I-1
Division of Reactor Projects, I/II
Office of Nuclear Reactor Regulation

Enclosure:
As stated

cc w/enclosure
See next page

(Contain Leakrate Tests 71135)

OFC	:PDI-1	:PDI-1	:PDI-1	:OGC	:	:	:
NAME	:CVogan	:DLaBarge:vr	:RCapra	:	:	:	:
DATE	:11/25/88	:11/28/88	:11/28/88	:11/29/88	:	:	:

OFFICIAL RECORD COPY

8812080096 881129
PDR ADOCK 05000333
PDC

DFol
11

88

Mr. John C. Brons
Power Authority of the State of New York

James A. FitzPatrick Nuclear
Power Plant

cc:

Mr. Gerald C. Goldstein
Assistant General Counsel
Power Authority of the State
of New York
10 Columbus Circle
New York, New York 10019

Ms. Donna Ross
New York State Energy Office
2 Empire State Plaza
16th Floor
Albany, New York 12223

Resident Inspector's Office
U. S. Nuclear Regulatory Commission
Post Office Box 136
Lycoming, New York 13093

Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, Pennsylvania 19406

Mr. Radford J. Converse
Resident Manager
James A. FitzPatrick Nuclear
Power Plant
Post Office Box 41
Lycoming, New York 13093

Mr. A. Klausman
Senior Vice President - Appraisal
and Compliance Services
Power Authority of the State
of New York
10 Columbus Circle
New York, New York 10019

Mr. J. A. Gray, Jr.
Director Nuclear Licensing - BWR
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. George Wilverding, Manager
Nuclear Safety Evaluation
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. Robert P. Jones, Supervisor
Town of Scriba
R. D. #4
Oswego, New York 13126

Mr. R. E. Beedle
Vice President Nuclear Support
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. J. P. Bayne, President
Power Authority of the State
of New York
10 Columbus Circle
New York, New York 10019

Mr. S. S. Zulla
Vice President Nuclear Engineering
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. Richard Patch
Quality Assurance Superintendent
James A. FitzPatrick Nuclear
Power Plant
Post Office Box 41
Lycoming, New York 13093

Mr. R. Burns
Vice President Nuclear Operations
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Charlie Donaldson, Esquire
Assistant Attorney General
New York Department of Law
120 Broadway
New York, New York 10271

UNITED STATES NUCLEAR REGULATORY COMMISSIONJAMES A. FITZPATRICK NUCLEAR POWER PLANTDOCKET NO. 50-333NOTICE 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 James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York.

By application dated November 9, 1988, the licensee requested that the primary containment leak rate test requirements described in Technical Specification (TS) Section 4.7.A.2.a(10) and Section 4.7.A.2.f be amended for the 1988 refueling outage on an emergency basis under the provisions of 10 CFR 50.91(a)(5). The application stated that these TS changes were necessary to allow plant startup from the 1988 refueling outage without performing a Type A primary containment integrated leak rate test (ILRT) or a Type A, B, or C leak rate test (LRT) following replacement of the high pressure coolant injection (HPCI) system turbine exhaust line manual block valve, as explained below.

Section 4.7.A.2.a(10) of the TS and Section III.A.6(b) of Appendix J to 10 CFR Part 50 require that if two consecutive periodic Type A tests (ILRTs) fail to meet the acceptance criteria, a Type A test must be performed at each plant shutdown for refueling or approximately every 18 months, whichever occurs first, until two consecutive Type A tests meet the acceptance criteria. When it was determined that the cause of the failure of tests, conducted in

1982, 1985 and 1987, to meet the acceptance criteria for the "As Found" condition was due to excessive combined leakage from several containment isolation valves, the licensee concluded that the most effective approach to eliminate the excessive leakage was to implement a Corrective Action Plan (CAP) using guidance given in Information Notice 85-71 dated August 22, 1985. In this CAP the licensee determined that 33 containment isolation valves, which previously were identified as having excessive leakage, should be replaced (21 during the 1988 refueling outage and 12 during the 1990 refueling outage). The 12 valves scheduled to be replaced during the 1990 refueling outage have acceptable leakage rates based on the tests performed during the 1988 refueling outage.

As part of the CAP, the licensee replaced the HPCI turbine exhaust line manual block valve to the suppression chamber (23-HPI-11). TS 4.7.A.2.f and Section IV.A of 10 CFR Part 50, Appendix J require that following replacement of a component which is part of the primary containment boundary, either a Type A, Type B, or Type C LRT, as applicable for the area affected, must be conducted and the appropriate acceptance criteria met. Since an isolatable volume for the resulting welds on the primary containment side of the valve could not be attained, the licensee conducted 100% radiography and dye penetrant tests on the welds to verify the structural integrity of the welds, in lieu of a Type A, B, or C test.

Based on an evaluation of the licensee's CAP, the alternate tests performed to ensure system integrity, and the implementation of an improved valve maintenance program, an exemption to the requirements of Section III.A.6(b) and Section IV.A of Appendix J to 10 CFR Part 50 was issued to the licensee by letter dated November 16, 1988. The exemption was noticed on November 25, 1988 (53 FR 47784).

When it was recognized that the licensee had inadvertently failed to identify that a TS amendment would be required in addition to the exemption, the licensee submitted the necessary amendment request dated November 9, 1988. Based on an evaluation of the amendment application (which is virtually identical to the exemption), a temporary waiver of compliance from the provisions of TS Section 4.7.A.2.a(10) and Section 4.7.A.2.f was issued by the NRC staff to the licensee by letter dated November 18, 1988. This allowed plant startup from the refueling outage without compliance with these TS requirements pending the NRC staff's review of the licensee's amendment request. In order to complete its review in an expeditious manner, yet allow for public comment, the NRC is processing the licensee's amendment proposal on an exigent basis under the provisions of 10 CFR 50.91(a)(6).

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 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.

These proposed changes do not increase the probability or consequences of an accident previously evaluated. The containment leakage rates assumed in

the Final Safety Analysis Report (FSAR) require that the valves which perform containment isolation functions, as well as the primary containment itself, exhibit superior leak rate characteristics. When the licensee found that the limit was frequently being exceeded, a CAP was initiated. The CAP involved a detailed analysis of the causes for exceeding the allowable limit, determination that the primary cause was valve seat leakage, identification of the valves which were causing the problems, determination of the best method to correct the problem valves, and implementation of the resulting plan to ensure that the leak limits are not exceeded in the future. It was determined that over time some of these valves exhibited gradual degradation to the point where their combined seat leakage rate, when added to the leakage rate resulting from the previous Type A test, caused the limit to be exceeded. This resulted in the determination that many valves needed to be replaced, some during the 1988 refueling outage and other during the 1990 refueling outage. All of these valves were tested prior to the end of the outage with satisfactory results. Using this program, the integrity of the primary containment has been restored so that it is reasonable to assume that the design leakage rate limits of the FSAR are satisfied without the need to perform a Type A test at the increased frequency. Therefore, the probability or consequence of an accident previously considered is not increased.

With respect to the replacement of the HPCI exhaust inboard manual block valve (23-HPI-11), the valve body and piping are part of the containment pressure boundary. The TS change allows installation of the valve without performing a leakage test on the welds connecting the valve to the containment

penetration. Instead, 100% radiography of the welds ensures the structural integrity of the welds and a dye penetrant examination of the surface of the weld ensures that any surface flaws which could lead to leakage paths are detected. Since the valve is normally open, remains open under accident conditions, and the structural integrity of the containment pressure boundary associated with the valve is assured, no change is made to the probability of occurrence or consequences of any accident previously evaluated.

These proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated. No plant operability, maintenance, or system design or functional requirements will be altered by these proposals.

The function of the primary containment is not affected by deletion of the additional 18-month Type A test. The containment shall still isolate, if required to mitigate the consequences of design basis accidents, to maintain site boundary doses below the required limits. Consequently, this change, as proposed, would not create the possibility of any new or different type of accident.

Valve 23-HPI-11 has no active safety function, since it remains open during normal and accident conditions, since alternate testing has been performed which ensures the integrity of the welds, and since it was replaced in kind with another valve, there is no change in the FSAR considerations for the replacement and no new or different kind of accident is created.

The proposed amendment will not involve a significant reduction in a margin of safety. A properly designed and implemented CAP in accordance with Information Notice 87-71, dated August 22, 1985, is superior to performing

Type A tests at an increased frequency. The licensee has implemented the CAP to improve the long-term leakage characteristic of the FitzPatrick containment. This CAP was implemented in lieu of performing a Type A test during the 1988 outage and results in no reduction of any margin of safety.

Valve 23-HPI-11 has no operational or accident mitigation functions. Performance of 100% radiography in lieu of a pneumatic leak rate test on the welds is conservative. The construction code (ANSI B-31.1-1967) allows for 100% radiography as an alternative to leakage testing when such testing is not practicable.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the changes do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

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, D.C. 20555, and should cite the publication date and page number of the FEDERAL REGISTER notice.

Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, Gleman Bulding, 2120 L Street, N.W., Washington, D.C.

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

By January 9, 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 request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule 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 that 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 the amendment is issued before the expiration of 30 days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, 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 considerations, 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.

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

Normally, the Commission will not issue the amendment until the expiration of the 15-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 15-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of 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, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, Gelman Building, 2120 L Street, N.W., Washington, D.C., 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 1-(800) 325-6000 (in Missouri 1-(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, D.C. 20555, and to Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

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).

For further details with respect to this action, see the application for amendment dated November 9, 1988, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555, and at the Local Public Document Room, Reference and Documents Department, Penefield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 29th day of November, 1988.

FOR THE NUCLEAR REGULATORY COMMISSION



David E. LaBarge, Project Manager
Project Directorate I-1
Division of Reactor Projects, I/II
Office of Nuclear Reactor Regulation

November 29, 1988

Docket No. 50-333

DISTRIBUTION

Mr. John C. Brons
Executive Vice President, Nuclear Generation
Power Authority of the State of New York
123 Main Street
White Plains, New York 10601

Docket file NRC PDR
Local PDR PDI-1 Rdg
SVarga BBoger
CVogan RCapra
DLaBarge OGC
DHagan EJordan
RGrimes TBarnhart (4)
WJones EButcher
ACRS (10) GPA/PA
ARM/LFMB JJohnson, RI

Dear Mr. Brons:

SUBJECT: JAMES A. FITZPATRICK NUCLEAR POWER PLANT - PRIMARY
CONTAINMENT LEAK RATE TESTS (TAC 71135)

The NRC staff has forwarded the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination" to the Office of the Federal Register for publication.

This notice relates to your November 9, 1988 application to eliminate two tests required by plant Technical Specifications during the 1988 refueling outage. These tests include, the requirement to perform a Type A primary containment integrated leak rate test and the requirement to perform a Type A, Type B, or Type C Leak Rate Test following replacement of the turbine exhaust line manual block valve in the high pressure coolant injection system. In order to allow plant restart without completing these tests, the NRC issued a Temporary Waiver of Compliance from the requirements of these two Technical Specifications on November 18, 1988. That waiver will remain in effect until the staff completes its review of your application.

Sincerely,

Scott Alexander McNeil for

David E. LaBarge, Project Manager
Project Directorate I-1
Division of Reactor Projects, I/II
Office of Nuclear Reactor Regulation

Enclosure:
As stated

cc w/enclosure
See next page

(Contain Leakrate Tests 71135)

OFC	: PDI-1	: PDI-1	: PDI-1	: OGC	:	:	:
NAME	: CVogan	: DLaBarge:vr	: RCapra	:	:	:	:
DATE	: 11/5/88	: 11/28/88	: 11/28/88	: 11/7/88	:	:	:

OFFICIAL RECORD COPY

~~8812080096~~ 299

Mr. John C. Brons
Power Authority of the State of New York

James A. FitzPatrick Nuclear
Power Plant

cc:

Mr. Gerald C. Goldstein
Assistant General Counsel
Power Authority of the State
of New York
10 Columbus Circle
New York, New York 10019

Ms. Donna Ross
New York State Energy Office
2 Empire State Plaza
16th Floor
Albany, New York 12223

Resident Inspector's Office
U. S. Nuclear Regulatory Commission
Post Office Box 136
Lycoming, New York 13093

Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, Pennsylvania 19406

Mr. Radford J. Converse
Resident Manager
James A. FitzPatrick Nuclear
Power Plant
Post Office Box 41
Lycoming, New York 13093

Mr. A. Klausman
Senior Vice President - Appraisal
and Compliance Services
Power Authority of the State
of New York
10 Columbus Circle
New York, New York 10019

Mr. J. A. Gray, Jr.
Director Nuclear Licensing - BWR
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. George Wilverding, Manager
Nuclear Safety Evaluation
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. Robert P. Jones, Supervisor
Town of Scriba
R. D. #4
Oswego, New York 13126

Mr. R. E. Beedle
Vice President Nuclear Support
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. J. P. Bayne, President
Power Authority of the State
of New York
10 Columbus Circle
New York, New York 10019

Mr. S. S. Zulla
Vice President Nuclear Engineering
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. Richard Patch
Quality Assurance Superintendent
James A. FitzPatrick Nuclear
Power Plant
Post Office Box 41
Lycoming, New York 13093

Mr. R. Burns
Vice President Nuclear Operations
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Charlie Donaldson, Esquire
Assistant Attorney General
New York Department of Law
120 Broadway
New York, New York 10271

UNITED STATES NUCLEAR REGULATORY COMMISSIONJAMES A. FITZPATRICK NUCLEAR POWER PLANTDOCKET NO. 50-333NOTICE 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 James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York.

By application dated November 9, 1988, the licensee requested that the primary containment leak rate test requirements described in Technical Specification (TS) Section 4.7.A.2.a(10) and Section 4.7.A.2.f be amended for the 1988 refueling outage on an emergency basis under the provisions of 10 CFR 50.91(a)(5). The application stated that these TS changes were necessary to allow plant startup from the 1988 refueling outage without performing a Type A primary containment integrated leak rate test (ILRT) or a Type A, B, or C leak rate test (LRT) following replacement of the high pressure coolant injection (HPCI) system turbine exhaust line manual block valve, as explained below.

Section 4.7.A.2.a(10) of the TS and Section III.A.6(b) of Appendix J to 10 CFR Part 50 require that if two consecutive periodic Type A tests (ILRTs) fail to meet the acceptance criteria, a Type A test must be performed at each plant shutdown for refueling or approximately every 18 months, whichever occurs first, until two consecutive Type A tests meet the acceptance criteria. When it was determined that the cause of the failure of tests, conducted in

~~88120 80099~~ *Foot*

1982, 1985 and 1987, to meet the acceptance criteria for the "As Found" condition was due to excessive combined leakage from several containment isolation valves, the licensee concluded that the most effective approach to eliminate the excessive leakage was to implement a Corrective Action Plan (CAP) using guidance given in Information Notice 85-71 dated August 22, 1985. In this CAP the licensee determined that 33 containment isolation valves, which previously were identified as having excessive leakage, should be replaced (21 during the 1988 refueling outage and 12 during the 1990 refueling outage). The 12 valves scheduled to be replaced during the 1990 refueling outage have acceptable leakage rates based on the tests performed during the 1988 refueling outage.

As part of the CAP, the licensee replaced the HPCI turbine exhaust line manual block valve to the suppression chamber (23-HPI-11). TS 4.7.A.2.f and Section IV.A of 10 CFR Part 50, Appendix J require that following replacement of a component which is part of the primary containment boundary, either a Type A, Type B, or Type C LRT, as applicable for the area affected, must be conducted and the appropriate acceptance criteria met. Since an isolatable volume for the resulting welds on the primary containment side of the valve could not be attained, the licensee conducted 100% radiography and dye penetrant tests on the welds to verify the structural integrity of the welds, in lieu of a Type A, B, or C test.

Based on an evaluation of the licensee's CAP, the alternate tests performed to ensure system integrity, and the implementation of an improved valve maintenance program, an exemption to the requirements of Section III.A.6(b) and Section IV.A of Appendix J to 10 CFR Part 50 was issued to the licensee by letter dated November 16, 1988. The exemption was noticed on November 25, 1988 (53 FR 47784).

When it was recognized that the licensee had inadvertently failed to identify that a TS amendment would be required in addition to the exemption, the licensee submitted the necessary amendment request dated November 9, 1988. Based on an evaluation of the amendment application (which is virtually identical to the exemption), a temporary waiver of compliance from the provisions of TS Section 4.7.A.2.a(10) and Section 4.7.A.2.f was issued by the NRC staff to the licensee by letter dated November 18, 1988. This allowed plant startup from the refueling outage without compliance with these TS requirements pending the NRC staff's review of the licensee's amendment request. In order to complete its review in an expeditious manner, yet allow for public comment, the NRC is processing the licensee's amendment proposal on an exigent basis under the provisions of 10 CFR 50.91(a)(6).

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 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.

These proposed changes do not increase the probability or consequences of an accident previously evaluated. The containment leakage rates assumed in

the Final Safety Analysis Report (FSAR) require that the valves which perform containment isolation functions, as well as the primary containment itself, exhibit superior leak rate characteristics. When the licensee found that the limit was frequently being exceeded, a CAP was initiated. The CAP involved a detailed analysis of the causes for exceeding the allowable limit, determination that the primary cause was valve seat leakage, identification of the valves which were causing the problems, determination of the best method to correct the problem valves, and implementation of the resulting plan to ensure that the leak limits are not exceeded in the future. It was determined that over time some of these valves exhibited gradual degradation to the point where their combined seat leakage rate, when added to the leakage rate resulting from the previous Type A test, caused the limit to be exceeded. This resulted in the determination that many valves needed to be replaced, some during the 1988 refueling outage and other during the 1990 refueling outage. All of these valves were tested prior to the end of the outage with satisfactory results. Using this program, the integrity of the primary containment has been restored so that it is reasonable to assume that the design leakage rate limits of the FSAR are satisfied without the need to perform a Type A test at the increased frequency. Therefore, the probability or consequence of an accident previously considered is not increased.

With respect to the replacement of the HPCI exhaust inboard manual block valve (23-HPI-11), the valve body and piping are part of the containment pressure boundary. The TS change allows installation of the valve without performing a leakage test on the welds connecting the valve to the containment

penetration. Instead, 100% radiography of the welds ensures the structural integrity of the welds and a dye penetrant examination of the surface of the weld ensures that any surface flaws which could lead to leakage paths are detected. Since the valve is normally open, remains open under accident conditions, and the structural integrity of the containment pressure boundary associated with the valve is assured, no change is made to the probability of occurrence or consequences of any accident previously evaluated.

These proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated. No plant operability, maintenance, or system design or functional requirements will be altered by these proposals.

The function of the primary containment is not affected by deletion of the additional 18-month Type A test. The containment shall still isolate, if required to mitigate the consequences of design basis accidents, to maintain site boundary doses below the required limits. Consequently, this change, as proposed, would not create the possibility of any new or different type of accident.

Valve 23-HPI-11 has no active safety function, since it remains open during normal and accident conditions, since alternate testing has been performed which ensures the integrity of the welds, and since it was replaced in kind with another valve, there is no change in the FSAR considerations for the replacement and no new or different kind of accident is created.

The proposed amendment will not involve a significant reduction in a margin of safety. A properly designed and implemented CAP in accordance with Information Notice 87-71, dated August 22, 1985, is superior to performing

Type A tests at an increased frequency. The licensee has implemented the CAP to improve the long-term leakage characteristic of the FitzPatrick containment. This CAP was implemented in lieu of performing a Type A test during the 1988 outage and results in no reduction of any margin of safety.

Valve 23-HPI-11 has no operational or accident mitigation functions. Performance of 100% radiography in lieu of a pneumatic leak rate test on the welds is conservative. The construction code (ANSI B-31.1-1967) allows for 100% radiography as an alternative to leakage testing when such testing is not practicable.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the changes do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

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, D.C. 20555, and should cite the publication date and page number of the FEDERAL REGISTER notice.

Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, Gleman Building, 2120 L Street, N.W., Washington, D.C.

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

By January 9, 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 request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule 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 that 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 the amendment is issued before the expiration of 30 days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, 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 considerations, 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.

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

Normally, the Commission will not issue the amendment until the expiration of the 15-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 15-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of 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, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, Gelman Building, 2120 L Street, N.W., Washington, D.C., 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 1-(800) 325-6000 (in Missouri 1-(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, D.C. 20555, and to Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

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).

For further details with respect to this action, see the application for amendment dated November 9, 1988, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555, and at the Local Public Document Room, Reference and Documents Department, Penefield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 29th day of November, 1988.

FOR THE NUCLEAR REGULATORY COMMISSION



David E. LaBarge, Project Manager
Project Directorate I-1
Division of Reactor Projects, I/II
Office of Nuclear Reactor Regulation