

Docket Nos.: 50-369
and 50-370

FEB 21 1986

Mr. H. B. Tucker, Vice President
Nuclear Production Department
Duke Power Company
422 South Church Street
Charlotte, North Carolina 28242

Dear Mr. Tucker:

Enclosed for your information is a copy of a "Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination" related to your request dated January 21, 1986, concerning the primary containment leak rate. This notice has been forwarded to the Office of the Federal Register for publication.

Sincerely,

151

B. J. Youngblood, Director
PWR Project Directorate #4
Division of PWR Licensing-A

Enclosure: As stated

cc w/encl: See next page

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PDR

Mr. H. B. Tucker
Duke Power Company

McGuire Nuclear Station

cc:

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DUKE POWER COMPANY

DOCKET NOS. 50-369 AND 50-370

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

The U. S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-9 and NPF-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The amendments relate to primary containment leak rate. Surveillance Specification 4.6.1.2 requires that primary containment leak rates periodically be demonstrated in conformance with criteria specified in Appendix J of 10 CFR 50. (Appendix J defines three types of leakage tests, identified as Types A, B and C.) Subparagraph d of this Specification states that Type B and C tests are to be conducted with gas at a specified pressure and test interval with three indicated exceptions. The proposed amendments would add NRC approved exemptions to Appendix J as a fourth exception to Subparagraph d. These changes were requested in the licensee's application for amendments dated January 21, 1986.

Before issuance of the proposed license amendments, 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 amendments 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.

Basis for proposed no significant hazards consideration determination:

Pursuant to 10 CFR 50.12(a) (50 FR 50764), the Commission may, in cases where special circumstances are present and upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

The proposed amendments would eliminate the potential for conflict between Specification 4.6.1.2.d and exemptions to Appendix J to 10 CFR 50 (relative to Type B and C leakage tests), once granted by the Commission. An example of such potential conflict is illustrated by the licensee's letter to NRC of September 24, 1985. The letter requests partial exemption to 10 CFR 50 Appendix J to leak test two mechanical penetrations for the Ice Condenser Refrigeration System using glycol as the test medium rather than gas. (The licensee also proposed an acceptance criterion of zero leakage for the test using glycol, and if not met, the penetration would then be drained and tested with gas in accordance with Appendix J.) The Commission is presently reviewing the licensee's request for exemption. If granted, this exemption permitting the use of glycol could not be implemented without violating existing Specification 4.6.1.2d which requires use of gas.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has re-

viewed the licensee's request for the above amendments and has determined that should this request be implemented, it would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated or (2) involve a significant reduction in a margin of safety because the Commission's review and approval process for exemptions would assure that containment integrity would not be compromised and that only exemptions meeting the criteria of 10 CFR 50.12(a) above would be granted. The proposed amendments, if implemented, also would not (3) create the possibility of a new or different kind of accident from any accident previously evaluated because Appendix J exemptions would involve only testing aspects rather than hardware changes or operating procedure changes. Accordingly, the Commission proposes to determine that the change 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 to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D. C. 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Monday through Friday. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C.

By 3/26/86 , the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses 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. Request 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 pre-hearing 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.

If the final determination is that the amendment involves a significant hazards consideration, 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 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.

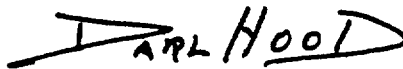
A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, 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 (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 B. J. Youngblood: 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 Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, 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 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 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Bethesda, Maryland, this 19th day of February 1986.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink that reads "Darl Hood". The signature is written in a cursive style with a large, sweeping initial "D".

Darl Hood, Acting Director
PWR Project Directorate #4
Division of PWR Licensing-A