

December 20, 2002

Mr. Harold W. Keiser
Chief Nuclear Officer & President
PSEG Nuclear LLC - X04
Post Office Box 236
Hancocks Bridge, NJ 08038

SUBJECT: HOPE CREEK GENERATING STATION - NOTICE OF CONSIDERATION OF
ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE,
PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION
DETERMINATION, AND OPPORTUNITY FOR A HEARING RE: REQUEST
FOR CHANGE TO TECHNICAL SPECIFICATION 4.8.1.1.2.h.14, EMERGENCY
DIESEL GENERATOR LOCKOUT RELAYS (TAC NO. MB6965)

Dear Mr. Keiser:

The enclosed notice was forwarded for publication in the *Federal Register*. The notice relates to your application for an amendment to Facility Operating License No. NPF-57 for the Hope Creek Generating Station dated December 17, 2002. The proposed amendment would provide a one-time change to Technical Specification (TS) 4.8.1.1.2.h.14 to allow the testing of Hope Creek's emergency diesel generator (EDG) lockout relays to be performed at power until startup from its eleventh refueling outage (spring 2003). The current TS surveillance requirement only allows the EDG lockout relays to be tested during shutdown conditions. PSEG has requested that the proposed TS change be issued on an exigent basis in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.91(a)(6).

Sincerely,

/RA/

Robert J. Fretz, Project Manager, Section 2
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-354

Enclosure: *Federal Register* Notice

cc w/encl: See next page

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Robert J. Fretz, Project Manager, Section 2
Project Directorate I
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Office of Nuclear Reactor Regulation

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DATE	12/19/02	12/19/02, 12/19/02	12/20/02

OFFICIAL RECORD COPY

PSEG Nuclear LLC

cc:

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Hope Creek Generating Station

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Municipal Building, P.O. Box 157
Hancocks Bridge, NJ 08038

Dr. Jill Lipoti, Asst. Director
Radiation Protection Programs
NJ Department of Environmental
Protection and Energy
CN 415
Trenton, NJ 08625-0415

Brian Beam
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Salem Nuclear Generating Station
U.S. Nuclear Regulatory Commission
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Hancocks Bridge, NJ 08038

UNITED STATES NUCLEAR REGULATORY COMMISSION

PSEG NUCLEAR LLC

DOCKET NO. 50-354

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 (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-57, issued to PSEG Nuclear LLC (PSEG or the licensee), for operation of the Hope Creek Generating Station (Hope Creek) located in Salem County, New Jersey.

The proposed amendment would provide a one-time change to Technical Specification (TS) 4.8.1.1.2.h.14 to allow the testing of Hope Creek's emergency diesel generator (EDG) lockout relays to be performed at power until startup from its eleventh refueling outage (spring 2003). The current TS surveillance requirement (SR) only allows the EDG lockout relays to be tested during shutdown conditions. Approval and implementation of the proposed TS change would allow the testing that has been completed to be used to comply with TS 4.8.1.1.2.h.14.

PSEG has requested that the proposed TS change be issued on an exigent basis in accordance with Title 10 of the CODE OF FEDERAL REGULATIONS (10 CFR) Section 50.91(a)(6). On December 12, 2002, all 4 Hope Creek EDGs were declared inoperable at 1:07 p.m. due to the licensee's failure to fully comply with TS SR 4.8.1.1.2.h.14.a. PSEG invoked TS 4.0.3, thus permitting 24 hours to complete the required surveillance activities. The SR that was not met required the licensee to demonstrate that the EDG differential current and low lube

oil pressure could independently provide trip and lockout inputs to the lockout relay 86R. TS 4.8.1.1.2.h requires this test to be performed during shutdown conditions. At 11:20 a.m. on December 13, 2002, PSEG invoked TS 4.0.3 when it determined that portions of SRs 4.8.1.1.2.h.14.b (backup relay 86B) and 4.8.1.1.2.h.14.c (breaker failure relay 86F) were missed for EDG "A" and EDG "C." TS 4.0.3 allows the licensee to complete missed surveillance tests within a 24-hour period following discovery that a SR was not done. On December 13, 2002, PSEG requested that the NRC exercise discretion in accordance with Section VII.C of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, by granting a Notice of Enforcement Discretion (NOED). At the time of the NOED request, the licensee was conducting portions of testing to meet 4.8.1.1.2.h.14.b and 4.8.1.1.2.h.14.c. Because TS 4.8.1.1.2.h currently requires that these tests be performed during shutdown conditions and the time to Hope Creek's next scheduled outage would exceed the non-compliance period beyond 14 days, PSEG further requested a one-time change to TS 4.8.1.1.2.h under exigent circumstances. Approval of this one-time TS change would allow testing recently conducted during power operations to satisfy the SR on the EDG lockout relays.

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.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine 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. 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:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This request is only administrative in nature. Portions of the protective Emergency Diesel Generator (EDG) lockout function testing required by Technical Specification (TS) 4.8.1.1.2.h.14 were discovered to have been missed and have since been satisfactorily performed during power operation. The provision of TS 4.8.1.1.2.h that requires testing be performed during shutdown precludes PSEG from taking credit for the on-line testing to meet the surveillance requirement. The scope of this amendment request is to enable PSEG to take credit for the testing that has been performed at power to satisfy TS 4.8.1.1.2.h.14. The requested amendment applies on a one-time basis until the next refueling outage. The change is administrative and cannot affect the initiation of any accident, nor does it affect the capability of the EDGs to fulfill their design basis accident functions.

Therefore, the request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The request is only administrative in nature in that surveillance requirement 4.8.1.1.2.h requires the surveillance to be performed during shutdown. The operability of the EDG lockout functions has been satisfactorily demonstrated; however the surveillance requirement as presently written cannot be administratively completed due to the shutdown conditions identified in the surveillance requirement. Since no physical changes are being made to the plant and there are no changes being made to the operation of Hope Creek, this request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

The operability of the EDG lockout functions has been satisfactorily demonstrated, however the surveillance requirement as written cannot be administratively completed due to the shutdown conditions identified in the surveillance requirement. Since there is no impact to the ability of the EDG's to function during a design basis accident, this request does not involve a significant reduction in a margin of safety.

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 14 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 14-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 14-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. 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 **[insert date 30 days from date of publication]**, 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 2.714,¹ which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and available electronically on the Internet at the NRC Web site <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. 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.

¹ 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 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. For the complete, corrected text of 10 CFR 2.714(d), please see 67 FR 20884; April 20, 2002."

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 the amendment is issued before the expiration of the 30-day hearing period, the

Commission will make a final determination on the issue of no significant hazards consideration. 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 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, 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. 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. A copy of the request for hearing and petition for leave to intervene should also be sent to Jeffrie J. Keenan, Esquire, Nuclear Business Unit - N21, P.O. Box 236, Hancocks Bridge, NJ 08038, 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).

For further details with respect to this action, see the application for amendment dated December 17, 2002, which is available for public inspection at the Commission's Public Document Room (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.

Dated at Rockville, Maryland, this day of December 2002.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Robert J. Fretz, Project Manager, Section 2
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation