November 2, 2004

Mr. Michael Kansler, President
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

SUBJECT: INDIAN POINT NUCLEAR GENERATING UNIT NO. 3 - NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING (TAC NO. MC4991)

Dear Mr. Kansler:

Enclosed is a copy of a "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity For a Hearing" related to your application for an amendment dated October 26, 2004, for Indian Point Nuclear Generating Unit No. 3.

The proposed amendment would revise Technical Specification (TS) 3.7.11, "Control Room Ventilation System (CRVS)," to add a note in limiting condition for operation (LCO) 3.7.11 and surveillance requirement 3.7.11.4 to allow, on a one-time basis, the placement of the CRVS in an alternate configuration to support tracer gas testing. The one-time allowance was proposed for the remaining period of the current operating cycle 13. The proposed amendment would also allow self-contained breathing apparatus and potassium iodide pills to be used as compensatory measures for the control room operators in the event that the tracer gas test results are not bounded by the dose consequence evaluations for the test.

This notice has been forwarded to the Office of Federal Register for publication.

Sincerely,

***/RA/***

Patrick D. Milano, Senior Project Manager, Section I
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-286

Enclosure: As stated

cc w/encl: See next page

November 2, 2004

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440 Hamilton Avenue
White Plains, NY 10601

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OFFICIAL RECORD COPY

Indian Point Nuclear Generating Unit No. 3

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Indian Point Nuclear Generating Unit No. 3

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7590-01-P

UNITED STATES NUCLEAR REGULATORY COMMISSION

ENTERGY NUCLEAR OPERATIONS, INC.

DOCKET NO. 50-286

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. DPR-64 issued to Entergy Nuclear Operations, Inc. (the licensee) for operation of the Indian Point Nuclear Generating Unit No. 3, located in Westchester County, New York.

The proposed amendment would revise Technical Specification (TS) 3.7.11, "Control Room Ventilation System (CRVS)," to add a note in limiting condition for operation (LCO) 3.7.11 and surveillance requirement (SR) 3.7.11.4 to allow, on a one-time basis, the placement of the CRVS in an alternate configuration to support tracer gas testing. The one-time allowance was proposed for the remaining period of the current operating cycle 13. The proposed amendment would also allow self-contained breathing apparatus and potassium iodide pill to be used as compensatory measures for the control room operators in the event that the tracer gas test results are not bounded by the dose consequence evaluations for the test.

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:

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

   Response: No

   The proposed change involves a modification to the design and operation of the control room ventilation system (CRVS). The primary effect of the proposed modification is an increase in the flow rate of filtered outside air into the control room. Industry experience and analyses indicate that this change will tend to reduce the amount of unfiltered outside air migrating through the control room envelope. The proposed change also establishes compensatory measures that could be invoked in the event that a measurement of unfiltered inleakage indicates the dose analysis assumptions are not bounding. Neither of these proposed changes is related to accident initiators so that the probability of a previously evaluated accident is not affected. The scope of previously evaluated accidents includes the dose consequences to control room operators. Dose consequence analyses have been updated, using existing dose acceptance criteria based on 10 CFR [Part] 50, Appendix A, GDC [General Design Criterion] -19, to reflect the proposed modification of the CRVS. In addition, establishing compensatory measures available to control room operators, provides further [assurance] that the dose consequences of previously evaluated accidents meet existing limits.

   Therefore the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

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

   Response: No

   There are no new accident precursors being created by the proposed modification of the CRVS or by establishing compensatory measures that could be used if unfiltered inleakage through the control room envelope is higher than assumed in dose consequence analyses. The CRVS will continue to function as

required to provide protection to the control room operators and the availability of compensatory measures provides further assurance that dose limits will be met.

Therefore, the proposed changes described in this license amendment request will not create the possibility of a new or different kind of accident from any accident previously evaluated.

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

Response: No

The existing dose limits established in 10 CFR [Part] 50, Appendix A, GDC 19 for control room operators are being maintained. Dose consequence analyses have been prepared that account for the proposed new configuration of the CRVS and a limit for unfiltered inleakage has been established as an acceptance criterion for the performance of tracer gas testing. In the event that tracer gas test results conclude that additional measures are needed for the control room envelope, compensatory measures are available to provide further assurance that dose limits will be met.

Therefore, the proposed changes described in this license amendment request will 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 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 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way

would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the *Federal Register* a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place 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, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

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

Within 60 days after the date of publication of this notice, 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 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 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/doc-collections/cfr/. (Note: Public access to ADAMS has been temporarily suspended so that security reviews of publicly available documents may be performed and potentially sensitive information removed. Please check the NRC Web site for updates on the resumption of ADAMS access.) If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, 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 general requirements: 1) the name, address and telephone number of the requestor or petitioner; 2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; 3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and 4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for 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/requestor 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. The petition must include 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/requestor who fails to satisfy 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.

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.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)-(viii).

A request for a hearing or a petition for leave to intervene must be filed by: 1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; 2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking

and Adjudications Staff; 3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HEARINGDOCKET@NRC.GOV; or 4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. 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 it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by email to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to Mr. John Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated October 26, 2004, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 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.

Dated at Rockville, Maryland, this 2nd day of November 2004.

FOR THE NUCLEAR REGULATORY COMMISSION

***/RA/***

Patrick D. Milano, Senior Project Manager, Section I
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation