

February 22, 2005

Mr. Raymond A. Mosely, Director
Office of the Federal Register
National Archives and Records Administration
Washington, DC 20408

SUBJECT: REQUEST FOR EMERGENCY PUBLICATION

Dear Mr. Mosely:

I am requesting emergency publication of the enclosed exigent notice of consideration in the *Federal Register*. Please publish this notice in the *Federal Register* on February 25, 2005.

This notice is required to support a license amendment to allow the Beaver Valley Power Station (BVPS) licensee to change the enable temperature of the overpressure protection system following implementation of the new reactor primary pressure/temperature limit curves following expiration of the current pressure/temperature limit curves in mid-March 2005. The urgency exists because without the amendment the licensee would be required to shutdown BVPS, Unit No. 2.

Please call Timothy G. Colburn at (301) 415-1402 to confirm publication date and to answer any questions you may have.

Sincerely,

/RA/

Richard J. Laufer, Chief, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-334 and 50-412

Enclosure: Notice of Consideration

cc w/encl: See next page

Mr. Raymond A. Mosely, Director
Office of the Federal Register
National Archives and Records Administration
Washington, DC 20408

SUBJECT: REQUEST FOR EMERGENCY PUBLICATION

Dear Mr. Mosely:

I am requesting emergency publication of the enclosed exigent notice of consideration in the *Federal Register*. Please publish this notice in the *Federal Register* on February 25, 2005.

This notice is required to support a license amendment to allow the Beaver Valley Power Station (BVPS) licensee to change the enable temperature of the overpressure protection system following implementation of the new reactor primary pressure/temperature limit curves following expiration of the current pressure/temperature limit curves in mid-March 2005. The urgency exists because without the amendment the licensee would be required to shutdown BVPS, Unit No. 2.

Please call Timothy G. Colburn at (301) 415-1402 to confirm publication date and to answer any questions you may have.

Sincerely,

/RA/

Richard J. Laufer, Chief, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-334 and 50-412

Enclosure: Notice of Consideration

cc w/encl: See next page

DISTRIBUTION:

PUBLIC
PDI-1 R/F
RLaufer
TColburn
MO'Brien(2)

ACCESSION NO. ML050530074

OFFICE	PDI-1/PM	PDI-2/LA	PDI-1/SC
NAME	TColburn	MO'Brien	RLaufer
DATE	2/22/05	2/22/05	2/22/05

OFFICIAL RECORD COPY

Beaver Valley Power Station, Unit Nos. 1 and 2

cc:

Mary O'Reilly, Attorney
FirstEnergy Nuclear Operating Company
FirstEnergy Corporation
76 South Main Street
Akron, OH 44308

FirstEnergy Nuclear Operating Company
Regulatory Affairs/Performance
Improvement
Larry R. Freeland, Manager
Beaver Valley Power Station
Post Office Box 4, BV-A
Shippingport, PA 15077

Commissioner James R. Lewis
West Virginia Division of Labor
749-B, Building No. 6
Capitol Complex
Charleston, WV 25305

Director, Utilities Department
Public Utilities Commission
180 East Broad Street
Columbus, OH 43266-0573

Director, Pennsylvania Emergency
Management Agency
2605 Interstate Dr.
Harrisburg, PA 17110-9364

Ohio EPA-DERR
ATTN: Zack A. Clayton
Post Office Box 1049
Columbus, OH 43266-0149

Dr. Judith Johnsrud
National Energy Committee
Sierra Club
433 Orlando Avenue
State College, PA 16803

J. H. Lash, Plant Manager (BV-IPAB)
FirstEnergy Nuclear Operating Company
Beaver Valley Power Station
Post Office Box 4
Shippingport, PA 15077

Rich Janati, Chief
Division of Nuclear Safety
Bureau of Radiation Protection
Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 8469
Harrisburg, PA 17105-8469

Mayor of the Borough of Shippingport
P O Box 3
Shippingport, PA 15077

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

Resident Inspector
U.S. Nuclear Regulatory Commission
Post Office Box 298
Shippingport, PA 15077

FirstEnergy Nuclear Operating Company
Beaver Valley Power Station
ATTN: R. G. Mende, Director
Work Management (BV-IPAB)
Post Office Box 4
Shippingport, PA 15077

FirstEnergy Nuclear Operating Company
Beaver Valley Power Station
Mr. B. F. Sepelak
Post Office Box 4, BV-A
Shippingport, PA 15077

Mr. L. William Pearce
Vice President
FirstEnergy Nuclear Operating Company
Beaver Valley Power Station
Post Office Box 4
Shippingport, PA 15077

UNITED STATES NUCLEAR REGULATORY COMMISSION
FIRSTENERGY NUCLEAR OPERATING COMPANY (FENOC)

DOCKET NOS. 50-334 AND 50-412

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 NRC or Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-66 and NPF-73, issued to FENOC (the licensee), for operation of the Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS-1, BVPS-2), located in Beaver County, Pennsylvania.

The proposed amendments would revise the Technical Specifications (TSs) to lower the BVPS-2 overpressure protection system (OPPS) enable temperature, allow one residual heat removal (RHR) loop to be inoperable for surveillance testing, remove the TS List of Figures and List of Tables from the BVPS-1 TSs, and make various minor changes to achieve consistency between units and with the Standard TSs for Westinghouse plants and with some TS Task Force changes.

On February 17, 2005, the licensee determined that the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.91(a)(2) have not been satisfied, in that *Notice for Public Comment* on the above referenced license amendment requests had not been published in the *Federal Register*. The licensee further determined that there would be insufficient time to provide for the normal 30-day notice prior to the approval and implementation of the amendment without requiring plant shutdown. The licensee stated that it

Enclosure

complied with all applicable requirements for completeness and timeliness in submitting the above license amendment application. Approval had been requested by February 15, 2005, to support revision of the existing BVPS-2 Pressure/Temperature limit curves prior to their expiration in mid-March 2005. In light of the above situation, the licensee has requested that the NRC consider these circumstances exigent and requests that further processing of the license amendment requests be completed under the provisions of 10 CFR 50.91(a)(6).

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.

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

Response: No. The modification to the Applicability of TS 3.4.3, Safety Valves, provides alignment with the Applicability of TS 3.4.9.3, Overpressure Protection Systems, such that the TS assures that overpressure protection is specified over all operational modes.

The modification and deletion of Notes associated with RCS [reactor coolant system] injection capability of the charging pumps during Mode transitioning results in a single Note that controls the charging pump restrictions and is consistent with the STS [standard technical specifications]. As a result the charging pump RCS injection capabilities during Mode transitioning restrictions

are either not changed or made more restrictive by the proposed changes.

The Unit 2 OPPS analysis documents that the TS imposed primary to secondary temperature restriction on starting each of the RCPs [reactor coolant pumps] is necessary for only the first RCP because thermal equilibrium of the reactor coolant system (RCS) is achieved shortly after the first pump is started. As a result a RCS heat injection event continues to be precluded.

The change from 15 minutes to 1 hour for charging pump swapping operations will not result in a significant increase in the probability of a low temperature overpressure event because the overall time allowed for pump swapping is short. Although the increase in time permits two charging pumps being capable of RCS injection during the Applicability of the OPPS TS, the hour is very short and permitted only for pump swapping operations. These operations are deliberate actions that are well controlled and accomplished in the shortest time possible.

The addition of a Note associated with the testing of a RHR pump will not result in a significant increase in the probability of an accident during Mode 5 because the RHR pumps are not an accident initiator and will not result in a significant increase in the consequences of a Mode 5 accident because the required cooling capability will be provided by the RHR train that is required to be in operation during the surveillance test of the inoperable RHR pump.

The additional restrictions imposed on removing the reactor coolant pumps and residual heat removal pumps from operation during Modes 4 and 5 further restrict removing these pumps from operation, thereby providing greater assurance the pumps will be operable when required.

The other changes, i.e., elimination of duplicated TS requirements, renumbering and reordering of various Notes and the deletion of the Unit 2 List of Figures and Tables, are made to improve the consistency between the BVPS TS and with the STS and have no effect on plant operations.

None of the proposed changes are initiators of any accident previously evaluated. Therefore, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident are also not affected by the proposed changes because none of the proposed changes will result in a change in the effluent that may be released offsite, the release duration or the release path.

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. None of the proposed changes involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in

the operation of plant equipment. Entering into the applicability of a TS, or utilization of the applicable Notes, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

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

Response: No. None of the proposed changes impact the existing margin of safety. The proposed changes assure that the affected components and systems are operable or incapable of RCS injection when required, thereby maintaining the existing margin of safety.

Therefore, the proposed changes do 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 amendments involve 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 (PDR), 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.

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 amendments 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/>. 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 requestor's/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/requestor is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petitioner/requestor 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/requestor 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(c)(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 e-mail to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to Mary O'Reilly, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308, attorney for the licensee.

For further details with respect to this action, see the application for amendments dated June 1, 2004, as supplemented July 23, 2004, and February 18, 2005, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 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.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 22nd day of February 2005.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Timothy G. Colburn, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation