



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 21, 2010

Mr. Preston Gillespie
Vice President, Oconee Site
Duke Energy Carolinas, LLC
7800 Rochester Highway
Seneca, SC 29672

SUBJECT: OCONEE NUCLEAR STATION, UNITS 1, 2, AND 3 (ONS) - INDIVIDUAL
NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY
OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR HEARING
(TAC NOS. ME3844, ME3845, AND ME3846)

Dear Mr. Gillespie

The U.S. Nuclear Regulatory Commission has forwarded the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing," to the Office of the Federal Register for publication.

This notice relates to your application dated May 30, 2008, as supplemented by letters dated October 31, 2008, January 30, February 9, February 23, May 31, August 3, September 29, and November 30, 2009, which requested approval to transition the fire protection licensing basis at ONS from Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.48(b) to 10 CFR 50.48(c), *National Fire Protection Association* (NFPA) 805. By letter dated April 14, 2010, the licensee resubmitted the application and superseded the content of the application submitted by letter dated May 30, 2008, and supplemented October 31, 2008. This resubmitted application, however, did not supersede previous responses to request for additional information submitted by letters dated January 30, February 9, February 23, May 31, August 3, September 29, and November 30, 2009.

If you have any questions, please contact me at 301-415-1345.

Sincerely,

A handwritten signature in black ink that reads "John Stang" with "for" written below it.

John Stang, Project Manager
Plant Licensing Branch II-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-269, 50-270, and 50-287

Enclosure:
Notice of Consideration

cc w/encl: Distribution via Listserv

UNITED STATES NUCLEAR REGULATORY COMMISSION

DUKE ENERGY CAROLINAS, LLC

DOCKET NOS. 50-269, 50-270, AND 50-287

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, the Commission) is considering issuance of an amendment to Renewed Facility Operating License Nos. DPR-38, DPR-47, and DPR-55 issued to Duke Energy Carolinas, LLC (the licensee) for operation of the Oconee Nuclear Station, Units 1, 2, and 3, (ONS) located in Oconee County, South Carolina.

The proposed amendment would approve the transition of the fire protection licensing basis at ONS from Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.48(b) to 10 CFR 50.48(c), *National Fire Protection Association* (NFPA) 805.

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 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 amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Operation of ONS in accordance with the proposed amendment does not increase the probability or consequences of accidents previously evaluated. The Updated Final Safety Analysis Report (UFSAR) documents the analyses of design basis accidents (DBA) at ONS. The proposed amendment does not adversely affect accident initiators nor alter design assumptions, conditions, or configurations of the facility and does not adversely affect the ability of structures, systems, and components (SSCs) to perform their design function. SSCs required to safely shut down the reactor and to maintain it in a safe shutdown (SSD) condition will remain capable of performing their design functions.

The purpose of this amendment is to permit ONS to adopt a new fire protection (FP) licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of Regulatory Guide (RG) 1.205. The NRC considers that National Fire Protection Association (NFPA) 805 provides an acceptable methodology and performance criteria for licensees to identify FP systems and features that are an acceptable alternative to the Appendix R FP features (69 FR 33536, June 16, 2004). Engineering analyses, in accordance with NFPA 805, have been performed to demonstrate that the risk-informed, performance-based (RI-PB) requirements per NFPA 805 have been met.

NFPA 805, taken as a whole, provides an acceptable alternative to 10 CFR 50.48(b) and satisfies 10 CFR 50.48(a) and General Design Criterion (GDC) 3 of Appendix A to 10 CFR Part 50 and meets the underlying intent of the NRC's existing FP regulations and guidance, and achieves defense-in-depth (DID) and the goals, performance objectives, and performance criteria specified in Chapter 1 of the standard. The small increases in core damage frequency associated with this LAR submittal are consistent with the Commission's Safety Goal Policy. Additionally 10 CFR 50.48(c) allows self approval of fire protection program changes post-transition. If there are any increases post-transition in core damage frequency (CDF) or risk, the increase will be small and consistent with the intent of the Commission's Safety Goal Policy.

Based on this, the implementation of this amendment does not significantly increase the probability of any accident previously evaluated. Equipment required to mitigate an accident remains capable of performing the assumed function. Therefore, the consequences of any accident previously evaluated are not significantly increased with the implementation of this amendment.

- 2) Does the proposed amendment create the possibility of a new or different kind of accident from any kind of accident previously evaluated?

Response: No.

Operation of ONS in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Any scenario or previously analyzed accident with offsite dose was included in the evaluation of DBAs documented in the UFSAR. The proposed change does not alter the requirements or function for systems required during accident conditions. Implementation of the new FP licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205 will not result in new or different accidents.

The proposed amendment does not adversely affect accident initiators nor alter design assumptions, conditions, or configurations of the facility. The proposed amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to safely shut down the reactor and maintain it in a safe shutdown condition remain capable of performing their design functions.

The purpose of this amendment is to permit ONS to adopt a new FP licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify FP systems and features that are an acceptable alternative to the Appendix R FP features (69 FR 33536, June 16, 2004).

The requirements in NFPA 805 address only FP and the impacts of fire on the plant have already been evaluated. Based on this, the implementation of this amendment does not create the possibility of a new or different kind of accident from any kind of accident previously evaluated. The proposed changes do not involve new failure mechanisms or malfunctions that can initiate a new accident. Therefore, the possibility of a new or different kind of accident from any kind of accident previously evaluated is not created with the implementation of this amendment.

- 3) Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Operation of ONS in accordance with the proposed amendment does not involve a significant reduction in the margin of safety. The proposed amendment does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed amendment does not adversely affect existing plant safety margins or the reliability of equipment assumed to mitigate accidents in the UFSAR. The proposed amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to safely shut down the reactor and to maintain it in a safe shutdown condition remain capable of performing their design functions.

The purpose of this amendment is to permit ONS to adopt a new FP licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify FP systems and features that are an acceptable alternative to the Appendix R FP features (69 FR 33536, June 16, 2004). Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based methods do not result in a significant reduction in the margin of safety.

Based on this, the implementation of this amendment does not significantly reduce the margin of safety. The proposed changes are evaluated to ensure that risk and safety margins are kept within acceptable limits. Therefore, the transition does not involve a significant reduction in the margin of safety.

NFPA 805 continues to protect public health and safety and the common defense and security because the overall approach of NFPA 805 is consistent with the key principles for evaluating license basis changes, as described in RG 1.174, is consistent with the defense-in-depth philosophy, and maintains sufficient safety margins.

Margins previously established for the ONS FP program in accordance with 10 CFR 50.48(b) and Appendix R to 10 CFR 50 are not significantly reduced. Therefore, this LAR does not result in a 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, Announcements and Directives Branch (RADB), TWB-05-B01M, 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 faxed to the RADB at 301-492-3446. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. 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 person(s) 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 O1F21, 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 requestor/petitioner 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 requestor/petitioner 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 requestor/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. 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 requestor/petitioner 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.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (301) 415-1677, to request (1) a digital ID

certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing

is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted 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; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike,

Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

For further details with respect to this license amendment application, see the application for amendment dated May 30, 2008, as supplemented by letters dated October 31, 2008, January 30, February 9, February 23, May 31, August 3, September 29, and November 30, 2009. By letter dated April 14, 2010, the licensee resubmitted the application which superseded the content of the application letters dated May 30, 2008, and October 31,

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Attorney for licensee: Lara S. Nichols, Associate General Counsel, Duke Energy Corporation, 526 South Church Street - EC07H, Charlotte, NC 28202

Dated at Rockville, Maryland, this 21st day of October 2010.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read "Jon Thompson". The signature is written in a cursive, flowing style.

Jon Thompson, Acting Project Manager
Plant Licensing Branch II-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

October 21, 2010

Mr. Preston Gillespie
Vice President, Oconee Site
Duke Energy Carolinas, LLC
7800 Rochester Highway
Seneca, SC 29672

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If you have any questions, please contact me at 301-415-1345.

Sincerely,
/RA by JThompson for/
John Stang, Project Manager
Plant Licensing Branch II-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-269, 50-270, and 50-287

Enclosure:
Notice of Consideration

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| DATE | 10/21/10 | 10/20/10 | 10/21/10 | 10/21/10 |

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