

## GE-Hitachi Nuclear Energy LLC Facility License Amendment Request No. 15

Purpose: Discuss whether Amendment 15 to the GE-Hitachi Nuclear Energy LLC Facility license represents a genuine issue requiring the NRC to give the public an opportunity for a hearing.

Outcome: Form an SFM determination on whether the amendment represents a Genuine Issue.

Process:

Regulatory basis - 72.46, "Public hearings"

- a. 72.46 (b)(1) states, "In connection with each application for an amendment to a license under this part, the Commission shall, except as provided in paragraph (b)(2) of this section, issue or cause to be issued a notice of proposed action and opportunity for hearing in accordance with § 2.105 or § 2.1107 of this chapter ..."
- b. 72.46(b)(2) states, "The Director, Office of Nuclear Material Safety and Safeguards, or the Director's designee may dispense with a notice of proposed action and opportunity for hearing or a notice of hearing and take immediate action on an amendment to a license issued under this part upon a determination that the amendment does not present a genuine issue as to whether the health and safety of the public will be significantly affected. After taking the action, the Director or the Director's designee shall promptly publish a notice in the Federal Register of the action taken and of the right of interested persons to request a hearing on whether the action should be rescinded or modified."

The application requested that Materials License No. SNM-2500 be amended to:

1. Clarify descriptions of authorized materials and physical forms currently onsite and described in the GE Morris Operation Consolidated Safety Analysis Report.

**SFM position:** This amendment does not present a Genuine Issue.

- a. This is an administrative amendment request requiring no regulatory or technical evaluations.
- b. SECY-99-175, "Proposed Rule: 10 CFR Part 72 – Clarification and Addition of Flexibility" forwarded a proposed rulemaking amending Part 72 to eliminate the necessity for repetitious reviews of cask design issues that the Commission previously considered during approval of the cask design, and stated the staff position that "... previously reviewed and approved cask designs should be excluded from the scope of a license hearing."
  - i. Public had the right to comment on the adequacy of the cask design during the Subpart L approval process
  - ii. Public still has the option to petition under 2.206 to raise new safety issues
  - iii. Re-review of cask design issues which have been previously resolved are an unnecessary regulatory burden on applicants causing unnecessary expenditure of staff and hearing board resources

File location: G:\SFST\GE Morris\AMD 15\Genuine Issue POP.doc

Docket 72-01

CAC : L25200