

UNITED STATES NUCLEAR REGULATORY COMMISSIONDUKE POWER COMPANYDOCKET NOS. 50-369 AND 50-370NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO  
FACILITY OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS  
CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-9 and NPF-17 issued to Duke Power Company (the licensee) for operation of McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The proposed amendments are a change for McGuire Unit 1 Cycle 7 to reduce from 75% to 50% the number of available moveable incore detector thimbles required for the Moveable Incore Detection System to be operable, thus allowing continued operation of Unit 1 should the current problem with sticking detector thimbles become worse. The amendment for Unit 2 is only of an administrative nature because it shares a common Technical Specification document with Unit 1.

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.

The Commission has made a proposed determination that the request for amendments involves no significant hazard consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments 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:

The proposed amendments would not involve an increase in the probability of an accident previously evaluated. The Moveable Incore Detection System is used only to provide confirmatory information on the neutron flux distribution and is not required for the day-to-day safe operation of the core. Its information is not considered in the accident analyses. The system is not a process variable that is an initial condition in FSAR [Final Safety Analysis Report] Chapter 15 analyses. The only previously evaluated accident the system could be involved in is breaching of the detector thimbles (due to wear by the detectors for example) which would be enveloped by the small break loss of coolant accident (LOCA) analysis. As the proposed changes do not involve any change to the system's equipment and no equipment is operated in a new or deteriorated manner, there is no increase in the probability of such an accident. The proposed amendments would not involve an increase in the consequences of an accident previously evaluated. The Moveable Incore Detection System is not used for accident mitigation (the system is not used in the primary success path for mitigation of a Design Basis Accident). The system is a control system not required for safety. The ability of the Reactor Protection System or Engineered Safety Features System instrumentation to mitigate the consequences of an accident have not been impaired. The small break LOCA analysis (and thus its consequences) continues to bound potential breaching of the system's detector thimbles. Therefore, the change does not involve an increase in the probability or consequences of an accident previously evaluated.

The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated as they only affect the minimum complement of equipment necessary for operability of the Moveable Incore Detection System. As discussed above, no new equipment is introduced and no equipment is operated in a new manner. Thus the changes could create no new or different accident causal mechanisms. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated since it does not modify plant operation or components.

The proposed amendments would not involve a significant reduction in a margin of safety. The reduction in the minimum complement of equipment necessary for operability of the Moveable Incore Detection System could only impact the monitoring/calibration functions of the system. Reduction of the number of available moveable incore detector thimbles

to the 50% level does not significantly degrade the ability of the Moveable Incore Detection System to measure core power distributions. Core peaking factor measurement uncertainties will be increased, but will be compensated for by conservative measurement uncertainty adjustments in the Technical Specifications to ensure that pertinent core design parameters are maintained. Sufficient additional penalty is added to the power distribution measurements such that this change does not impact the safety margins which currently exist. Also, available detector thimble reduction has negligible impact on the quadrant tilt and core average axial power shape measurement. Sufficient detector thimbles will be available to ensure that no quadrant will be unmonitored. Based on these factors, the margin of safety is not reduced as the core will continue to be adequately monitored.

In addition, similar changes for other plants in the past (as well as for McGuire Unit 1 Cycle 6) have been determined not to involve Significant Hazards Considerations.

Based upon the preceding analysis, Duke Power Company concludes that the proposed amendments do not involve a Significant Hazards Consideration.

The Commission's staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 10 CFR 50.92 are satisfied. Therefore, based on the above considerations, the Commission has made a proposed determination 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. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this FEDERAL REGISTER



notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 25, 1991, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses 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 petition for leave to intervene. Request for a hearing and petitions 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 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. 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 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. 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 fifteen (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 fifteen (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 amendments

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 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 request for amendments involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If a final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendments until the expiration of the 30-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 amendments before the expiration of the 30-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 a

notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

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, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to David B. Matthews: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this FEDERAL REGISTER notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, 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 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 19, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Rockville, Maryland, this 17th day of January, 1991.

FOR THE NUCLEAR REGULATORY COMMISSION



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