

UNITED STATES NUCLEAR REGULATORY COMMISSION

POWER AUTHORITY OF THE STATE OF NEW YORK

DOCKET NO. 50-333

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The U. S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-59, issued to the Power Authority of the State of New York (the licensee), for operation of the James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York.

The licensee has proposed by letter dated July 7, 1983, to modify the Technical Specifications pertaining to the Scram Discharge Volume (SDV) system to support modifications made to the system during the current refueling outage. The modifications currently underway will replace the single scram discharge instrument volume with redundant instrument volumes, improve hydraulic coupling, include redundant vent and drain valves and level instruments for each instrument volume, add diverse automatic scram instrumentation, and add early high water level detection instrumentation. In support of these modifications and consistent with guidance provided by the staff in a generic safety evaluation on long-term SDV modifications, the licensee has proposed certain changes to the Technical Specifications for the SDV system to add limiting conditions for operation and surveillance requirements

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As a result of a number of events involving SDV systems at operating facilities, the NRC had conducted a review of SDV system operations, identified areas for improvement, and requested licensees to implement both short- and long-term modifications to their SDV systems. Implementation of the short-term modifications was adequate to justify continued operation while the long-term modifications addressed the SDV system design deficiencies and were intended to restore the safety margins for the SDV system originally believed to be in the licensing bases for the facility.

In July 1980, the NRC identified certain short-term SDV system modifications and associated technical specifications which the licensee subsequently implemented (see Amendment No. 62 to Facility Operating License No. DPR-59). In addition, two operating restrictions to the short-term modified SDV system were imposed by Orders to require continuous SDV water level monitoring instrumentation and an automatic scram on low pressure in the SDV system control air header (see Confirmatory Order to Facility Operating License No. DPR-59, dated October 2, 1980; and Order for Modification to Facility License No. DPR-59, dated January 9, 1981). These interim modifications and operating restrictions were to be superseded upon completion of the long-term SDV modifications.

In December 1980, the NRC issued a generic safety evaluation of the long-term SDV system modifications (see NRC Generic Safety Evaluation Report: BWR Scram Discharge System, dated December 1, 1980) that described the long-term modifications, specified actions to be taken by the licensee and the staff's acceptance

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criteria, and included guidance for appropriate Technical Specifications to be proposed for the newly installed components and instrumentation. The licensee subsequently committed to implement the long-term SDV modifications in accordance with the staff's generic safety evaluation and scheduled installation of the modifications for the current refueling outage. This commitment and schedule was later confirmed by Order (see Confirmatory Order to Facility Operating License No. DPR-59, dated June 24, 1983).

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 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.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14780). The example most similar to the amendment proposed by the licensee is one of the examples of amendments involving a significant hazards consideration: "... (vii) A change in plant operation

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designed to improve safety but which, due to other factors, in fact allows plant operation with safety margins significantly reduced from those believed to have been present when the license was issued." In the example, although the change is intended to improve plant safety, the existence of other factors results in a determination that a significant hazards consideration exists.

In its application for amendment, the licensee states that it is currently installing the long-term SDV system modifications in accordance with the guidance in the staff's generic safety evaluation and will demonstrate acceptable operation of the modified system using the staff's acceptance criteria. In addition, the licensee has proposed to add certain limiting conditions for operation and surveillance requirements in the technical specifications for the newly installed components and instruments.

The change proposed by the licensee is similar to the example cited above in that the SDV long-term modifications will improve plant safety by improving the functional capabilities of the SDV system through improved hydraulic coupling, redundancy of components, and diversity of instrumentation. However, the proposed change differs significantly from the example in that none of the modifications will reduce a margin of safety. Rather, the long-term SDV system modifications will increase the safety margins by restoring them back to the original safety margins believed to have been present when the license was issued. Thus the proposed change does not involve the other factors cited in the example which would result in a determination that a significant hazards consideration exists.

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Therefore, for all of the reasons discussed above the staff has made the proposed determination that the application for amendment involves no significant hazards determination.

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.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By August 25, 1983, 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 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. 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.

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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 a 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, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. 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.

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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 amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it 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 involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment 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 amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves 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.

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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, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., 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 (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Domenic B. Vassallo: 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 Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

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 designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

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For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Penfield Library, State University College of Oswego, Oswego, New York.

Dated at Bethesda, Maryland, this 20th day of July 1983.

FOR THE NUCLEAR REGULATORY COMMISSION

ORIGINAL SIGNED BY

Domenic B. Vassallo, Chief
 Operating Reactors Branch #2
 Division of Licensing

Distribution: SNorris RClark (Orig. + 1) ORB#2 Wkg File-FitzPatrick
 PKreutzer JHegner Docket File
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Previous concurrence sheet concurred on by:*

DL:ORB#2 SNorris*	DL:ORB#2 JHegner*:pob P-29	DL:ORB#2 DVassallo*	DL:ORB#3 RClark	OELD *	(Concurrence from J. Scinto* during phone call with Joe Hegner)
7/14/83	7/13/83 A-9-17	7/14/83	7/ /83	7/18/83	
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Dated at Bethesda, Maryland, this

FOR THE NUCLEAR REGULATORY COMMISSION

Domenic B. Vassallo, Chief
Operating Reactors Branch #2
Division of Licensing

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Concurrence from J. Scinto during phone call with J. Hegner.

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SURNAME	SNorris	JHegner	PKreutzer	RCClark	DVassallo	
DATE	7/14/83	7/15/83	A-9-18	7/14/83	7/18/83	