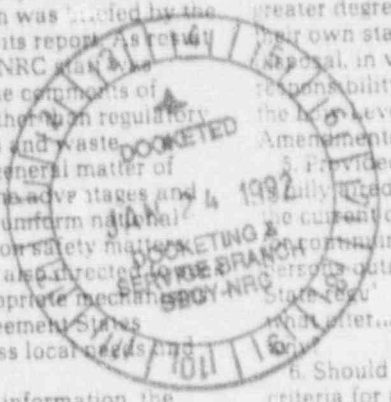


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report on compatibility.<sup>2</sup> On June 11, 1991 the Commission was briefed by the OAS Task Force on its report. As requested by that briefing, the NRC staff has requested to seek the comments of interested parties other than regulatory (e.g. materials users and waste generators) on the general matter of compatibility and the advantages and disadvantages of a uniform national approach to radiation safety matters. The NRC staff was also directed to seek comments on appropriate mechanisms to provide the Agreement States flexibility to address local needs and conditions.



In gathering this information, the Commission is particularly interested in comments in response to the following questions:

1. As noted above, Congress established the Agreement State program in part because of the various and conflicting programs being implemented by States. Do you believe that there should be a uniform national approach to radiation safety matters? Should the scope of uniformity be narrowly focused or comprehensive? Please explain the advantages and disadvantages of views expressed.
2. As indicated in the description of the four Divisions for compatibility can be implemented in a tiered manner, with the ranging from being identical to complete Agreement State flexibility.
  - a. Is the tiered approach described in the Divisions a reasonable approach for regulations? For programs as a whole?
  - b. What areas of Agreement State radiation control and protection should be identical to those of the NRC and why?
  - c. What areas of Agreement State radiation control and protection should be allowed to be different from those of the NRC and why? Should the differences include: more stringent standards? less stringent standards? more comprehensive requirements? or less comprehensive requirements? Please explain the basis for your views.
3. What mechanisms should the NRC use to allow Agreement States to have flexibility to address local needs or conditions? What factors should the Commission consider in balancing local needs or conditions and interstate or other national interests?

<sup>2</sup> This report and a related letter dated January 24, 1991, are available in the NRC Public Document Room. Single copies are available upon request. They may be obtained by writing to Carrieina Maudin, State Agreements Program, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555 or by telephoning (301) 504-0312.

4. Should Agreement States be given a greater degree of flexibility in fashioning their own standards for low-level waste disposal, in view of the State's increased responsibility in this area, according to the Low-Level Radioactive Waste Policy Amendments Act of 1985?
5. Provided the issue of compatibility fully aired in rulemaking notices, is the current comment process sufficient for continuing dialogue with those persons outside the NRC/Agreement State regulatory partnership? If not, what alternative would you suggest and why?
6. Should the NRC develop exemption criteria for an Agreement State that does not adopt a rule deemed a matter of compatibility, as described for NRC's Division 1 and 2 rules, if an Agreement State requests such an exemption? What factors should be considered in the criteria to assure that the exemption is justified?

**Paperwork Reduction Act Statement**

This request for comments does not constitute information collection under the exception from the definition of information contained in 5 CFR 1320.7(j)(4) and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501).

Dated at Rockville, Maryland, this 16th day of December, 1991.

For the Nuclear Regulatory Commission,  
 Samuel J. Chilk,  
 Secretary of the Commission.  
 [FR Doc. 91-30577 Filed 12-20-91; 8:45 am]  
 BILLING CODE 7590-01-W

**[DOCKET No. 50-322]**

**Long Island Lighting Co.;  
 Consideration of Issuance of an Order  
 Authorizing Decommissioning a  
 Facility and Opportunity for Hearing**

The U.S. Nuclear Regulator, Commission (the Commission) is considering issuance of an order to Facility Operating License No. NPF-82, issued to Long Island Lighting Company (LILCO, the licensee), for the Shoreham Nuclear Power Station, Unit 1 (SNPS) located in Suffolk County, New York. The order would involve approval of the SNPS Decommissioning plan.

On June 28, 1989, LILCO, the owner of SNPS, entered into an agreement with the State of New York. This settlement agreement between LILCO and New York State specifies that LILCO will transfer ownership of SNPS to Long Island Power Authority (LIPA), an entity of New York State. LIPA will decommission SNPS. All spent fuel has been transferred from the reactor to the

spent fuel pool and License No. NPF-82 has been amended to possess-but-not-operate status. This Order would allow the immediate dismantlement of the reactor pressure vessel and internals, contaminated systems, and plant structures (DECON). LIPA further intends to remove all radioactive waste generated during decommissioning of SNPS offsite and return the facility to unrestricted use. With respect to fuel disposition, LIPA has proposed two fuel disposal options. The first and preferred option is to ship the fuel to another utility for use (Nine Mile Point, Unit 2), and the second option is to ship the fuel for reprocessing in Europe in accordance with International Atomic Energy Agency regulations. Therefore, fuel disposal is not considered part of the decommissioning actions at SNPS.

The Plan also analyzes potential accidents at the facility and the controls established for radiation protection and the prevention of the release of radioactivity from the site. A supplement to the SNPS environmental Report submitted with the Decommissioning Plan analyzes the environmental impacts of the DECON decommissioning option.

Before issuance of the proposed Order, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 22, 1992, the Licensee may file a request for a hearing with respect to issuance of the order to the subject facility 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 2.714 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, Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786-9697. 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

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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 petitioner must 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 aspects 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 unless directed otherwise, but such an amendment 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 must file a supplement to the petition to intervene which must include a list of the contentions which are sought to be resolved 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 must provide a brief explanation of the basis 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 respect to the contention on a material issue of law or fact. Contentions shall be limited to matters within the scope of the order 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.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 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 or representative for the petitioner promptly so inform the Commission by a toll free telephone call to Western Union at 1-800-323-6600 (in Missouri: 1-314-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Seymour H. Weiss: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the *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 W. Taylor Reveley, III, Esq., Hunton and Williams, River Front Plaza, East Tower, 851 East Byrd Street, Richmond, VA 23219-4074, attorney for the licensee.

Untimely 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 presiding 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 petition, see the application dated January 2, 1991, and the Decommissioning Plan dated December 21, 1990 as supplemented on August 25, November 27 and December 8, 1991, available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Shenandoah Valley River Public Library, Route 27A, Parkersburg, New York 11768-9997.

Filed at Rockville, Maryland, this 27th day of December 1991.

For the Nuclear Regulatory Commission:  
Stewart W. Brown,

Project Manager, Non-Power Reactors,  
Decommissioning and Environmental Project  
Directorate, Division of Advanced Reactor  
and Special Projects, Office of Nuclear  
Reactor Regulation.

[FR Doc. 91-36539 Filed 12-20-91; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. 50-333]

**Power Authority of the State of New York; issuance of Environmental Assessment and Finding of No Significant Impact**

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 the operation of the James A. FitzPatrick Nuclear Power Plant in Oswego County, New York.

**Identification of Proposed Action**

The amendment would consist of changes to the Technical Specifications (TS) that would authorize an increase in the storage capacity of the spent fuel pool from 2244 fuel assemblies to 2797 fuel assemblies.

The amendment to the TS is responsive to the licensee's application dated May 31, 1990, as supplemented October 31, 1990, December 5, 1990, June 26, 1991, July 12, 1991, July 16, 1991, and September 19, 1991. The Commission staff has prepared an Environmental Assessment of the Proposed Action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Expansion of the Spent Fuel Pool, Facility Operating License No. DPR-59, Power Authority of the State of New York, James A. FitzPatrick Nuclear Power Plant, Docket No. 50-333," dated December 13, 1991.

**Summary of Environmental Assessment**

The "Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel" (NUREG-0573), Volumes 1-3, concluded that the environmental impact of interim storage of spent fuel was negligible and the cost of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying spent fuel storage. Because of the references in design, the FGEIS recommended evaluating spent fuel pool expansions on a case-by-case basis.

For the James A. FitzPatrick Nuclear Power Plant, the expansion of the