

UNITED STATES NUCLEAR REGULATORY COMMISSIONPOWER AUTHORITY OF THE STATE OF NEW YORKDOCKET NO. 50-333NOTICE 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 amendment to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York (the licensee), for operation of the James A. FitzPatrick Nuclear Power Plant (the facility), located in Oswego County, New York.

In accordance with the licensee's application dated December 6, 1984, as supplemented January 10, 1985, the proposed amendment would revise the Technical Specifications (TSs) to permit refueling with the Reactor Protection System (RPS) inoperable. These revisions would facilitate installation of Analog Trip Transmitter System components and avoid delay in completion of the 1985 refueling outage.

In Table 3.1-1 of Appendix A of the TSs, for the refueling mode, the following statement would be added: "When all rods are full-in and electrically disarmed, the reactor protection system need not be operable." In Section 3.10, the following item (3.10.A.8) would be added: "Refuel interlocks and rod blocks associated with one rod permissive need not be operable if all rods are fully inserted and electrically disarmed."

The Reactor Protection System limits the uncontrolled release of radioactive material from the fuel and the Reactor Coolant Pressure

Boundary by terminating excessive temperature and pressure increases through the initiation of an automatic scram. The function of refueling interlocks is to prevent criticality by restricting the movement of control rods during refueling and to prevent refueling operations from being carried out when all control rods are not fully inserted. The proposed revisions would require that all control rods be electrically disarmed once the rods are fully inserted. The need for interlocks under these conditions would therefore be eliminated.

Before issuance of the proposed license amendment, the Commission will have made findings as 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. Since the reactor would be in cold shutdown, the only design basis accidents that could possibly occur, and, therefore, need to be considered are: a rod drop accident, a fuel assembly drop accident in the spent fuel pool, and a refueling accident in which a fuel assembly drops on the core during refueling. The proposed revisions would not increase the probability of fuel assembly drops. In the unlikely event one occurs, neither the reactor protection system nor the control rod blocks and refueling interlocks could, or are designed to, prevent or mitigate the consequences. A

rod drop accident, which is described in Section 14.6.1.2 of the FitzPatrick Final Safety Analysis Report (FSAR), is not considered credible since it cannot occur in the absence of rod withdrawal. Rod motion is physically prevented by electrically disarming all rods as described above. In addition, procedures and administrative controls which meet the requirements of 10 CFR 50 Appendix B will be used to assure that the rods are electrically disarmed.

- (2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The only events that could be associated with the proposed revisions have been discussed above. No new possible events can be attributed to the proposed revisions.
- (3) Involve a significant reduction in a margin of safety. Since the proposed revisions apply only when all rods are fully inserted and electrically disarmed, the reactor, in effect, would already be in a scrammed condition. Therefore, under these circumstances, no reduction in safety margin would result from an inoperable RPS. In addition, the nuclear characteristics of the core assure that the reactor would remain subcritical even if the highest worth control rod were able to be fully withdrawn.

Based on the foregoing, the Commission proposes to determine that the proposed license amendment does not involve a 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.

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 March 6, 1985, 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.

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.

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.

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, Attn: 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, attorney for the licensee.

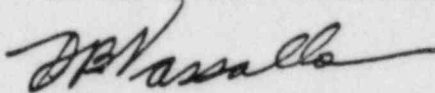
Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, 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).

For further details with respect to this action, see the application for amendment, dated December 6, 1984, as supplemented January 10, 1985,

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 28th day of January, 1985.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in dark ink, appearing to read "D. Vassallo", written in a cursive style.

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