

UNITED STATES NUCLEAR REGULATORY COMMISSIONNORTHEAST NUCLEAR ENERGY COMPANY, ET AL.DOCKET NO. 50-336NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO  
FACILITY OPERATING LICENSE AND OPPORTUNITY FOR PRIOR HEARING

The U. S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-65 issued to Northeast Nuclear Energy Company, et al. (the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 2, located in New London County, Connecticut.

On June 2, 1987, the NRC staff issued Amendment No. 117 to Facility Operating License No. DPR-65 which permitted storage of consolidated spent fuel at Millstone Unit No. 2 in partial response to the licensee's application dated May 21, 1986. Amendment No. 117 expanded the number of storage locations from 1112 to 1346 by permitting the storage of consolidated spent fuel boxes in locations required to be blocked with cell blocking devices when surrounding locations are used for the storage of unconsolidated assemblies. Amendment No. 117 allowed the storage of 1965 assemblies in 1346 locations, taking into account the mix of locations needed for intact fuel assemblies and locations used for storage of consolidated fuel boxes (each equivalent to 2 intact fuel assemblies).

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However, Amendment No. 117 contained a footnote that limited the storage of consolidated spent fuel storage boxes to five (5).

The NRC staff is now considering a change to the Technical Specifications to remove the footnote to TS 3.2.20, "Spent Fuel Pool." The change would remove the limitation restricting the storage of consolidated spent fuel boxes to five (5).

In response to the NRC staff's questions on the licensee's amendment request dated May 21, 1986, the licensee provided answers in a letter of April 30, 1987. Attached to the letter was a document entitled "Fuel Consolidation Demonstration Program." The licensee, with the NRC staff's knowledge, undertook the consolidation of ten (10) assemblies pursuant to the provisions of 10 CFR 50.59. The staff will review the consolidation process in connection with authorizing the use of the expanded capacity of the spent fuel pool that results from the use of the consolidation process.

Prior to 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.

By February 28, 1988, the licensee may file a request for a hearing with respect to the 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 amendments 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.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPAct), 42 U.S.C. § 10154. Under section 134 of the NWPAct, the Commission, at the request of any party to the proceeding, is authorized to use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPAct are found in 10 CFR Part 2, subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 (October 15, 1985)). Under those rules, any party to the

proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, subpart G continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, subpart G apply.

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 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) 324-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: (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, D.C. 20555 and to Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499, attorney for the licensee.

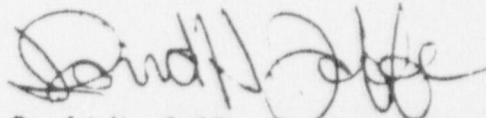
Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should 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 action, see the application for amendment dated May 21, 1986, as supplemented by the letter of April 30, 1987. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06103.

Dated at Bethesda, Maryland this 28th day of December 1987.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in dark ink, appearing to read "David H. Jaffe", written in a cursive style.

David H. Jaffe, Project Manager  
Project Directorate I-4  
Division of Reactor Projects I/II