

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 United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License No. NPF-9 and Facility Operating License No. NPF-17, issued to Duke Power Company, (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The proposed amendments would relocate fire protection requirements from the operating licenses and the Technical Specifications (TS) to the Final Safety Analysis Report (FSAR) in accordance with NRC Generic Letters (GL) 86-10 and 88-12. Specifically, the requested changes would revise Unit 1 License Condition 2.C.(4) and corresponding Unit 2 License Condition 2.C.(7) "Fire Protection Program" to delete obsolete requirements to complete certain modifications which have been completed, and substitute a standard condition that states:

- b. The licensee may make changes to the approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.

The proposed amendments would delete TS 3/4.3.3.7, referenced TS Table 3.3-11 and corresponding Bases, each titled "Fire Detection Instrumentation;"

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TS 3/4.7.10 "Fire Suppression Systems" including all subsections, referenced TS Table 3.7-5 "Fire Hose Stations," and associated Bases; TS 3/4.7.11 "Fire Barrier Penetrations" and its corresponding Bases; and TS 6.2.2.e which addresses staffing requirements for the site Fire Brigade. Additionally, reference to the "Fire Brigade" composition within the footnote referenced by TS 6.2.2.e would be removed. The TS Index would be revised to reflect these deletions.

The proposed amendments would supplement the administrative controls requirements of TS 6.5.1 "Review and Audit-Technical Review and Control Activities" to require that the Station Manager ensure the performance of a review by a qualified individual/organization of the Fire Protection Program and implementing procedures and submittal of recommended changes to the Nuclear Safety Review Board. The amendments would also supplement TS 6.8.1 "Procedures and Programs" to add the following to the existing activities requiring written procedures: "h. Fire Protection Program implementation" and "i. Commitments contained in FSAR Chapter 16.0."

The licensee's application for the amendments was dated March 9, 1987, and revised March 20, 1989.

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 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 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.

The proposed revision to the license condition is in accordance with the guidance provided in GL 86-10 and GL 88-12 for licensees requesting removal of fire protection TS. The incorporation of the existing Fire Protection Program, and the former TS requirements by reference to the procedures implementing these requirements, into the FSAR and the use of the standard license condition on fire protection will ensure that the Fire Protection Program, including the systems, the administrative and technical controls, the organization, and the other plant features associated with fire protection will be on a consistent status with other plant features described in the FSAR. Also, the provisions of 10 CFR 50.59 would then apply directly for changes the licensee desires to make in the Fire Protection Program. In this context, the determination of the involvement of an unreviewed safety question defined in 10 CFR 50.59(a)(2) would be made based on the "accident...previously evaluated" being the postulated fire in the fire hazards analysis for the fire area affected by the change. Hence, the proposed license condition establishes an adequate basis for defining the scope of changes to the Fire Protection Program which can be made without prior Commission approval, i.e., without introduction of an unreviewed safety question. The revised license condition or the removal of the existing TS requirements on fire protection does not create the possibility of a new or different kind of accident from those previously evaluated. They also don't involve a significant reduction in the margin of safety since the license condition does not alter the requirement that an evaluation be performed for the identification of an unreviewed safety question for each proposed change to

the Fire Protection Program. Consequently, neither the proposed license condition nor the removal of the fire protection requirements involves a significant increase in the probability or consequences of an accident previously evaluated.

The proposed modification of the Administrative Control Section 6 of the TS includes the addition of Fire Protection Program implementation to the requirements for Specification 6.8. Procedures and Programs, that requires written procedures be established, implemented, and maintained covering this program. This section of the TS is also modified to include the review of the Fire Protection Program and implementing procedures by a qualified individual or organization and the submittal of recommended changes to the Nuclear Safety Review Board as one of the responsibilities of the Station Manager under TS 6.5.1. In this manner, the Fire Protection Program will be addressed by administrative control requirements that are consistent with other programs addressed by license conditions. These changes, and the change to the license conditions to delete obsolete (completed) requirements, are administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards considerations.

The proposed amendments include the removal of fire protection TS in four areas: (1) fire detection systems, (2) fire suppression systems, (3) fire barriers, and (4) fire brigade staffing requirements. While it is recognized that a comprehensive Fire Protection Program is essential to plant safety, many details of this program that are currently addressed in TS can be modified without affecting nuclear safety. With the removal of these requirements from the TS, they have been incorporated into the Fire Protection Program implementing

procedures. Hence, with the additions to the existing administrative control requirements that are applicable to the Fire Protection Program and the revised license condition, there are suitable administrative controls to ensure that licensee initiated changes to these requirements, that have been removed from the TS, will receive careful review by competent individuals. Again, these changes are administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards considerations.

Based on the preceding assessment, the staff proposes to find that the amendments involve no significant hazards considerations.

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 and Resources Management, U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room P-216, 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, 2120 L Street, N.W., Washington, D.C. The filing of requests for hearing and petitions for leave to intervene are discussed below.

By *June 5, 1989*, 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. 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.

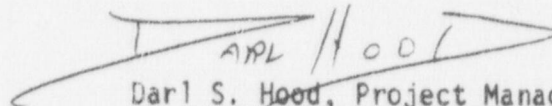
A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, N.W. Washington, 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 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 General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Non timely 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 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 the amendments which is available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Rockville, Maryland, this 28th day of April 1989.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read "Darl S. Hood". The signature is written in a cursive style with a long horizontal stroke extending to the left.

Darl S. Hood, Project Manager
Project Directorate II-3
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

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 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 the amendments which is available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Rockville, Maryland, this 28th day of April 1989.

FOR THE NUCLEAR REGULATORY COMMISSION

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Darl S. Hood, Project Manager
Project Directorate II-3
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

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