

UNITED STATES NUCLEAR REGULATORY COMMISSIONCAROLINA POWER & LIGHT COMPANYDOCKET NOS. 50-325 AND 50-324NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-71 and DPR-62, issued to the Carolina Power & Light Company (the licensee), for operation of the Brunswick Steam Electric Plant (BSEP) Units 1 and 2 respectively, located near Southport in Brunswick County, North Carolina.

The proposed amendment would revise the Technical Specifications (TS) for BSEP Units 1 and 2 to eliminate certain instrumentation response time testing requirements in accordance with NRC-approved BWR Owners Group Topical Report NEDO-32291-A, "System Analysis for the Elimination of Selected Response Time Testing Requirements." The testing requirements are associated with the reactor protection system (RPS), isolation system, and emergency core cooling system (ECCS). The proposed amendment must be issued in a timely manner to avoid an unnecessary shutdown of both BSEP units as a result of forcing compliance with current TS requirements. Such a shutdown creates a potential for an undesirable plant transient and is unnecessary in that the proposed TS, which would permit continued operation, are consistent with guidelines already approved by the NRC staff.

The licensee was formally notified by the NRC on March 21, 1997, of the potential that its response time testing procedures, which are consistent with the NRC-approved NEDO-32291-A Topical Report, do not meet current TS surveillance requirements. The licensee then promptly examined its testing practices, determined that a TS compliance issue existed, and submitted a TS amendment request on March 24, 1997. That amendment request was superseded on March 27, 1997, with the proposed amendment addressed by this notice. The NRC staff is thus satisfied that, once formally notified of a potential TS compliance problem, the licensee used its best efforts to make a timely amendment request.

In response to a March 21, 1997, verbal request from the licensee, enforcement discretion was granted by the NRC on this matter until April 21, 1997, while the proposed amendment is publicly noticed and considered by the NRC. The licensee's request for enforcement discretion is documented in a letter to the NRC dated March 22, 1997. The NRC's approval of that request is documented in a letter dated March 25, 1997. Both letters are available to the public.

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.

Pursuant to 10 CFR 50.91(a)(6), for amendments to be granted under exigent circumstances, the NRC staff must determine 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. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

CP&I has reviewed these proposed license amendment requests and concluded that their adoption does not involve a significant hazards consideration. The bases for this determination follows.

1. The proposed license amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

BWR Owners' Group Licensing Topical Report NEDO-32291-A demonstrates that quantitative response time testing is redundant to other Technical Specification requirements. Qualitative tests are sufficient to identify failure modes or degradation in instrument response time and ensure operation of the associated systems within acceptance limits. There are no known failure modes that can be detected by response time testing that cannot also be detected by other Technical Specification required tests. ECCS, RPS, and Isolation System response times will continue to be determined using a methodology that has been reviewed and approved by the NRC. Therefore, the proposed license amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed license amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed license amendments do not affect the capability of the associated systems to perform their intended function within the acceptance limits assumed in the plant safety analyses and required for successful mitigation of an initiating event. The proposed amendments do not change the way in which any plant systems are operated. ECCS, RPS, and Isolation System response times will continue to be determined using a methodology that has been reviewed and approved by the NRC. Therefore, the proposed amendments do not create the possibility of a new or different kind of accident.

3. The proposed license amendments do not involve a significant reduction in a margin of safety.

The current Technical Specification response times are based on the maximum allowable values assumed in the plant safety analyses.

These analyses conservatively establish the margin of safety. As described above, determination of response times based on an alternate NRC approved methodology (i.e., provided in the NEDO-32291-A report) will not affect the capability of the associated systems to perform their intended function within the allowed response time used as the bases for the plant safety analyses. Plant and system response to an initiating event will remain in compliance with the assumptions of the safety analyses; therefore, the margin of safety is not affected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-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 14-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 in the FEDERAL REGISTER a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications

Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 1, 1997, 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 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, and at the local public document room located at the William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297. 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 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 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. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases 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 the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment 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.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, 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 immediately 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 request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

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, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 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) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. Mark Reinhart, Acting Director, Project Directorate II-1, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission: 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, DC 20555-0001, and to Mr. William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602, 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 March 27, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297

Dated at Rockville, Maryland, this 27th day of March 1997.

FOR THE NUCLEAR REGULATORY COMMISSION

David C. Trimble

David C. Trimble, Project Manager
Project Directorate II-1
Division of Reactor Projects-I/II
Office of Nuclear Reactor Regulation