

### A. Timing and Location of Evidentiary Hearing

The evidentiary hearing will commence on the afternoon of March 10, 2003, at 1:30 p.m. in Hearing Room One, located on the first floor of the Connecticut Department of Public Utility Control Building, at Ten Franklin Square, New Britain, Connecticut.

The hearing will continue from day to day until concluded. At the conclusion of each day, the Board will announce when the hearing will reconvene, which will generally be at 9 a.m. each day (although the hearing may not start until 10 a.m. on Wednesday, March 12). Hearings will extend until approximately 5 p.m. each day (except that on Friday, March 14, the hearing will likely adjourn at approximately 12 noon). The Board may make changes in the schedule, lengthening or shortening each day's session or canceling a session as deemed necessary or appropriate to allow for witnesses' availability and other matters arising during the course of the proceeding.

Members of the public are encouraged to attend any and all sessions of the evidentiary hearing, but should note that these sessions are adjudicatory proceedings open to the public for observation only. Those who wish to participate are invited to offer limited appearance statements as provided in Section B, below.

### B. Participation Guidelines for Oral Limited Appearance Statements

On the evening of March 11, 2003, starting at 6 p.m. and continuing until 9 p.m. as necessary, in the same location as the evidentiary hearing, any persons who are not parties to the proceeding will be permitted to make oral statements setting forth their positions on matters of concern relating to this proceeding. Although these statements do not constitute testimony or evidence, they may nonetheless help the Board and/or the parties in their consideration of the issues in this proceeding.

The time allotted for each statement will normally be no more than five minutes, but may be further limited depending on the number of written requests to make oral statements that are submitted in accordance with section C below, and/or on the number of persons present the evening of March 11, 2003. Persons who submit timely written requests to make oral statements will be given priority over those who have not filed such requests. If all scheduled and unscheduled speakers present have made their oral statements prior to 9

p.m., the Licensing Board may terminate the session before 9 p.m.

### C. Submitting Requests To Make an Oral Limited Appearance Statements

To be considered timely, a written request to make an oral statement must be mailed, faxed, or sent by e-mail so as to be received by close of business (4:30 p.m. EST) on Friday, February 28, 2003. Written requests should be submitted to: Mail: Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Fax: (301) 415-1101 (verification (301) 415-1966). E-mail: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov).

In addition, using the same method of service, a copy of the written request to make an oral statement should be sent to the Chair of this Licensing Board as follows:

Mail: Administrative Judge Ann Marshall Young, Atomic Safety and Licensing Board Panel, Mail Stop T-3F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Fax: 301/415-5599 (verification 301/415-7550).

E-mail: [AMY@nrc.gov](mailto:AMY@nrc.gov).

### D. Submitting Written Limited Appearance Statements

A written limited appearance statement may be submitted at any time. Such statements should be sent to the Office of the Secretary using any of the methods prescribed above, with a copy to the Licensing Board Chair by the same method.

### E. Availability of Documentary Information Regarding the Proceeding

Documents relating to this proceeding are available for public inspection at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland; or electronically through the publicly available records component of the NRC Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible through the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The PDR and many public libraries have terminals for public access to the Internet. Persons who do not have access to ADAMS or who encounter problems in obtaining access to the documents located in ADAMS may contact the NRC PDR reference staff by telephone at 1-800/397-4209 or 301/415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated in Rockville, Maryland, on January 27, 2003.

For the Atomic Safety and Licensing Board.

**Ann Marshall Young,**

*Chair, Administrative Judge.*

[FR Doc. 03-2311 Filed 1-30-03; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-369 and 50-370]

### Duke Energy Corporation, McGuire Nuclear Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering the re-issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. NPF-9 and NPF-17, issued to the Duke Power Company (the licensee), for operation of the McGuire Nuclear Station (McGuire), Units 1 and 2, located in Mecklenburg County, North Carolina.

### Environmental Assessment

#### Identification of Proposed Action

The proposed action would continue to authorize an exemption that was granted to the licensee on July 31, 1997, from the requirements of 10 CFR 70.24, which requires a monitoring system that will energize clear audible alarms if accidental criticality occurs in each area in which special nuclear material is handled, used, or stored. The proposed action would also continue to exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations.

The proposed action is in response to the licensee's application for an exemption from 10 CFR 70.24 dated February 4, 1997, as supplemented by letter dated March 19, 1997, and reflects the licensee's letters dated April 18, August 7 and October 9, 2002, and January 15, 2003, wherein the licensee revised a portion of the technical basis supporting its request for the exemption.

#### The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that, if a criticality were to occur

during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant, the provisions of 10 CFR 70.24 relate to an inadvertent criticality event that could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored on site is small enough to preclude achieving a critical mass.

By letter dated April 18, 2002, as supplemented by letters dated August 7 and October 9, 2002, and January 15, 2003, the licensee submitted an application for revisions to the McGuire Technical Specifications (TSs) to address the spent fuel pool Boraflex degradation issues. The analysis supporting this application proposed to take partial credit for boron in the spent fuel pool water. Therefore, a part of the technical basis for the granting of the exemption from 10 CFR 70.24 on July 31, 1997, is revised. Accordingly, the exemption and the associated environmental assessment are being reissued to reflect the revision in the design basis assumptions for the spent fuel pool in the calculation of the limiting value of the criticality parameter,  $k$ -effective. Because the fuel is not enriched beyond 4.75 weight percent Uranium-235 and because commercial nuclear plant licensees have procedures and features designed to prevent inadvertent criticality, the staff has determined that it is unlikely that an inadvertent criticality could occur due to the handling of special nuclear material at a commercial power reactor. The requirements of 10 CFR 70.24, therefore, are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

#### *Environmental Impacts of the Proposed Action*

The NRC has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the McGuire TSs, the design of the fuel storage racks that provide geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. The TS requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR part 50, "General Design Criteria for Nuclear Power Plants," Criterion 62, requires that criticality in the fuel storage and handling system be prevented by physical systems or processes, preferably by use of geometrically safe configurations. This is met at McGuire, as identified in the TS Section 4.3 and in the Updated Final Safety Analysis Report (UFSAR), Section 9.1, by detailed procedures that must be available for use by refueling personnel. Therefore, as stated in the TSs, these procedures, the TS requirements, and the design of the fuel handling equipment with built-in interlocks and safety features, provide assurance that it is unlikely that an inadvertent criticality could occur during refueling. In addition, the design of the facility does not include provisions for storage of spent fuel in a dry location within the fuel storage building.

UFSAR Section 9.1.1, "New Fuel Storage," states that new fuel is stored in the New Fuel Storage Racks located within a New Fuel Storage Vault at each McGuire unit. The new fuel storage racks are arranged to provide dry storage. The racks consist of vertical cells grouped in parallel rows, 6 rows wide and 16 cells long, which provide support for the new fuel assemblies and maintain a minimum center-to-center distance of 21 inches between assemblies. (Note that in none of these locations would criticality be possible.)

The proposed exemption would not result in any significant radiological impacts. The proposed exemption would not affect radiological plant effluents nor cause any significant occupational exposures since the TSs, design controls (including geometric spacing and design of fuel assembly storage spaces) and administrative controls preclude inadvertent criticality. The amount of radioactive waste would not be changed by the proposed exemption.

The proposed exemption does not result in any significant nonradiological environmental impacts. The proposed exemption involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

#### *Alternatives to the Proposed Action*

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives

with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

#### *Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in NUREG-0063, "Final Environmental Statement Related to the Operation of William B. McGuire Nuclear Station, Units 1 and 2," April 1976, and the Addendum to NUREG-0063 issued in January 1981.

#### *Agencies and Persons Contacted*

In accordance with its stated policy, on January 27, 2003, the staff consulted with the North Carolina State official, Mr. Johnny James of the Division of Environmental Health, Radiation Protection Section, North Carolina Department of Environment and Natural Resources, regarding the environmental impact of the proposed amendments. The State official had no comments.

#### **Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter requesting an exemption that was dated February 4, 1997, and supplemented by letter dated March 19, 1997, and the licensee's letters dated April 18, August 7, October 9, 2002, and January 15, 2003, proposing a revision in certain design basis assumptions related to the issuance of the exemption from 10 CFR 70.24. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by

telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, MD, this 27th day of January, 2003.

For the Nuclear Regulatory Commission.

**Allen G. Howe,**

*Chief, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 03-2310 Filed 1-30-03; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302]

### Florida Power Corp.; Notice of Withdrawal of Environmental Assessment

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Florida Power Corporation (the licensee) to withdraw its November 18, 2002, application for exemption for the Crystal River Nuclear Plant, Unit 3, located in Citrus County, Florida.

The proposed exemption would have allowed the licensed operator requalification examinations for Crystal River Unit 3 to be rescheduled due to a possible labor action.

The Commission had previously issued an Environmental Assessment and Finding of No Significant Impact published in the **Federal Register** on December 11, 2002 (67 FR 76198) for the proposed exemption as required by 10 CFR 51.21. However, by letter dated December 19, 2002, the licensee withdrew the proposed change. Therefore, the Commission is withdrawing its previously issued Environmental Assessment and Finding of No Significant Impact.

For further details with respect to this action, see the request for exemption dated November 18, 2002, and the licensee's letter dated December 19, 2002, which withdrew the request for exemption. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams/html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR

Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 27th day of January 2003.

For the Nuclear Regulatory Commission.

**Matthew McConnell,**

*Acting Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 03-2308 Filed 1-30-03; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-05295]

### Environmental Assessment and Finding of No Significant Impact

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of Environmental Assessment and Finding of no Significant Impact related to license amendment of Byproduct Material License No. 29-03761-01, Warner-Lambert Company, Morris Plains, New Jersey.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Material License No. 29-03761-01 to authorize release of its facility in Morris Plains, New Jersey, for unrestricted use and has prepared an Environmental Assessment in support of this action. Based upon the Environmental Assessment, the NRC has concluded that a Finding of No Significant Impact is appropriate, and, therefore, an Environmental Impact Statement is unnecessary.

**FOR FURTHER INFORMATION CONTACT:**

Betsy Ullrich, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406; telephone (610) 337-5040 or e-mail [exu@nrc.gov](mailto:exu@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The U. S. Nuclear Regulatory Commission is considering terminating Byproduct Materials License No. 29-03761-01 and authorizing the release of the licensee's facilities in Morris Plains, New Jersey, for unrestricted use and has prepared an Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) in support of this action.

**SUMMARY:** The U. S. Nuclear Regulatory Commission (NRC) reviewed the results of the decommissioning of the Warner-Lambert Company (Warner-Lambert) facility in Morris Plains, New Jersey.

Warner-Lambert was authorized by NRC from 1963 to 2002 to use radioactive materials for research and development purposes at the site. In 2002, Warner-Lambert ceased operations with licensed materials at the Morris Plains site, and requested that NRC terminate its license. Warner-Lambert has conducted surveys of the facility and determined that the facility meets the license termination criteria in subpart E of 10 CFR part 20. The NRC staff has evaluated Warner-Lambert's request and results of the surveys, and has developed an Environmental Assessment (EA) in accordance with the requirements of 10 CFR part 51. Based on the staff evaluation, the conclusion of the EA is a Finding of No Significant Impact (FONSI) on human health and the environment for the proposed licensing action.

### Introduction

Warner-Lambert Company (Warner-Lambert) requested release for unrestricted use of the buildings at 170 and 182 Tabor Road, Morris Plains, New Jersey as authorized by the NRC License No. 29-03761-01, and termination of the license. License No. 29-03761-01 was issued in 1963 and amended periodically since that time. It authorizes Warner-Lambert to perform activities at 170, 175 and 182 Tabor Road, Morris Plains, New Jersey. The building at 175 Tabor Road, although authorized on the license, was not used for licensed activities. NRC-licensed activities performed at the Morris Plains site were limited to laboratory procedures typically performed on bench tops and in hoods. A variety of radionuclides were used primarily for research and development, but past activities also included manufacture and distribution of radio-labeled pharmaceuticals for medical research. No outdoor areas were affected by the use of licensed materials.

Licensed activities ceased completely in June 2002, and the licensee requested termination of the license and release of the facilities for unrestricted use. Based on the licensee's historical knowledge of the site and the conditions of the facility, the licensee determined that only routine decontamination activities, in accordance with licensee radiation safety procedures, were required. A decommissioning plan was not required to be submitted to the NRC. The licensee surveyed the facilities, decontaminated or remediated areas as needed, and provided documentation that the facilities meet the license termination criteria specified in subpart E of 10 CFR part 20, and do not require additional decommissioning activities