

1954, as amended, the NWSA, and the Commission's regulations, then the Commission will issue a construction authorization, in the form and containing such conditions and limitations, if any, as the Commission finds appropriate and necessary.

The Commission finds that a hearing is required in the public interest, prior to issuance of a construction authorization. A notice of hearing announcing the opportunity to petition for leave to intervene in the hearing will be published in the **Federal Register** at a later date. The notice of hearing will state, pursuant to 10 CFR 2.104(b): (1) The nature of the hearing; (2) the authority under which the hearing is to be held; (3) the matters of fact and law to be considered; (4) the date by which requests for hearing or petitions to intervene must be filed; and (5) the presiding officer designated for the hearing or the procedure that the Commission will use to designate a presiding officer for the hearing.

Pursuant to its obligations under § 114(f)(4) of the NWSA, and 10 CFR 51.26(c), it is the intention of the Commission to adopt the environmental impact statement (EIS) prepared by the Secretary of Energy to the extent practicable.

In accord with 10 CFR 51.109(a), the NRC staff's position is that it is practicable to adopt, with further supplementation, the EIS and supplements prepared by DOE. The staff concludes that neither the 2002 Final Environmental Impact Statement (FEIS) nor the 2008 Final Supplemental Environmental Impact Statement (Repository Supplemental EIS) adequately address all of the impacts on groundwater, or from surface discharges of groundwater, from the proposed action. The staff concludes that additional supplementation is needed to ensure the 2002 FEIS and 2008 Repository Supplemental EIS are adequate. The basis for the staff's position is presented in the "U.S. Nuclear Regulatory Commission Staff's Adoption Determination Report for the U.S. Department of Energy's Environmental Impact Statements for the Proposed Geologic Repository at Yucca Mountain," which is available in the Agencywide Documents Access and Management System (ADAMS), accession number ML082420342. [The ADAMS accession number for the ADAMS package containing DOE's Final Environmental Impact Statement is ML032690321, and the accession number for the ADAMS package containing DOE's Final Supplemental Environmental Impact Statement is ML081750191. The ADAMS accession

number for the ADAMS package containing DOE's Final Rail Corridor Supplemental EIS and Rail Alignment EIS is ML082460227.]

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 20852, and will be accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site <http://www.nrc.gov/reading-rm/adams.html>. The application is also available at <http://www.nrc.gov/waste/hlw-disposal/yucca-lic-app.html>. Persons who do not have access to ADAMS or who encounter problems in accessing 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 8th day of September 2008.

For The Nuclear Regulatory Commission.

**Michael F. Weber,**

*Director, Office of Nuclear Material Safety and Safeguards.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-333]

### Entergy Nuclear Fitzpatrick, LLC, and Entergy Nuclear Operations, Inc.; The James A. Fitzpatrick Nuclear Power Plant; Notice of Issuance of Renewed Facility Operating License No. DPR-59 for an Additional 20-Year Period Record of Decision

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Renewed Facility Operating License No. DPR-59 to the Entergy Nuclear FitzPatrick, LLC and Entergy Nuclear Operations, Inc. (the licensee), the operator of the James A. FitzPatrick Nuclear Power Plant (JAFNPP). Renewed Facility Operating License No. DPR-59 authorizes operation of JAFNPP, by the licensee at reactor core power levels not in excess of 2536 megawatts thermal (881 megawatts electric), in accordance with the provisions of the JAFNPP renewed license and its Technical Specifications.

This notice also serves as the record of decision for the renewal of Facility Operating License No. DPR-59 for JAFNPP, consistent with Title 10 of the Code of Federal Regulations Section 51.103 (10 CFR 51.103). As discussed in the Final Supplemental Environmental

Impact Statement (FSEIS) for JAFNPP, dated January 2008, the Commission considered a range of reasonable alternatives that included generation from coal, natural gas, oil, wind, solar, hydropower, geothermal, wood waste, municipal solid waste, other biomass-derived fuels, delayed retirement, utility-sponsored conservation, a combination of alternatives, and a no-action alternative. The factors considered in the record of decision can be found in the supplemental environmental impact statement (SEIS) for License Renewal, Supplement 31 regarding James A. FitzPatrick Nuclear Power Plant.

JAFNPP is a boiling water reactor located along the shore of Lake Ontario, Oswego County, New York. The site is approximately seven miles north-northeast of the city of Oswego. The application for the renewed licenses complied with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. As required by the Act and the Commission's regulations in 10 CFR Chapter I, the Commission has made appropriate findings, which are set forth in the license.

Prior public notice of the action involving the proposed issuance of the renewed license and of an opportunity for a hearing regarding the proposed issuance of the renewed license was published in the **Federal Register** on September 20, 2006 (71 FR 55032). For further details with respect to this action, see (1) The Entergy Nuclear FitzPatrick, LLC and Entergy Nuclear Operations, Inc., license renewal application for James A. FitzPatrick Nuclear Power Plant dated July 31, 2006, as supplemented by letters dated through November 5, 2007; (2) the Commission's safety evaluation report (NUREG-1905), published in April 2008; (3) the licensee's updated safety analysis report; and (4) the Commission's final environmental impact statement (NUREG-1437, Supplement 31), published in January 2008. These documents are available at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, and can be viewed from the NRC Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>.

Copies of Renewed Facility Operating License No. DPR-59 may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Director, Division of License Renewal. Copies of the James A. FitzPatrick Nuclear Power Plant, Safety Evaluation Report (NUREG-1905) and

the Final Environmental Impact Statement (NUREG-1437, Supplement 31) may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161-0002 (<http://www.ntis.gov>), 703-605-6000, or the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954 (<http://www.gpoaccess.gov>), 202-512-1800. All orders should clearly identify the NRC publication number and the requester's Government Printing Office deposit account number or a VISA or MasterCard number and expiration date.

Dated at Rockville, Maryland, this 8th day of September 2008.

For the Nuclear Regulatory Commission.

**Brian E. Holian,**

*Director, Division of License Renewal, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[NRC-2008-0497]

### NRC Enforcement Policy Revision

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability of draft and request for comments.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is revising its Enforcement Policy (Enforcement Policy or Policy) to more appropriately address the various areas that the NRC regulates, providing a framework that supports consistent implementation of the Enforcement Policy. A notice was published on January 25, 2007, announcing that the NRC was undertaking a major revision of the Enforcement Policy to clarify the use of terms and update the Policy, removing outdated information and adding information addressing enforcement issues in areas that are not currently directly addressed in the Policy. The NRC is now soliciting written comments from interested parties including public interest groups, states, members of the public and the regulated industry, i.e., reactor and materials licensees, vendors, and contractors, on the proposed revised Policy. This request is intended to assist the NRC in revising the Enforcement Policy; NRC does not intend to modify its emphasis on compliance with NRC requirements.

**DATES:** Submit comments on or before November 14, 2008. This time period allows for the public to respond to this

notice as well as the opportunity to provide general comments on the revision of the Policy. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Comments will be made available to the public in their entirety; personal information, such as your name, address, telephone number, e-mail address, etc. will not be removed from your submission. You may submit comments by any one of the following methods:

*Federal e-Rulemaking Portal:* <http://www.regulations.gov>; search on docket ID: NRC-2008-0497.

*Mail comments to:* Michael T. Lesar, Chief, Rulemaking, Directives, and Editing Branch, Office of Administration, Mail Stop: T-6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

*Hand-deliver comments to:* 11555 Rockville Pike, Rockville, MD 20852, between the hours of 7:45 a.m. and 4:15 p.m., Federal workdays.

You can access publicly available documents related to this notice using the following methods:

*Federal e-Rulemaking Portal:* Documents related to this notice, including public comments, are accessible at <http://www.regulations.gov>, by searching on docket ID: NRC-2008-0497.

*NRC's Public Document Room (PDR):* The public may examine and have copied for a fee, publicly available documents at the NRC's PDR, Public File Area O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

*NRC's Agencywide Document Access and Management System (ADAMS):* The draft Enforcement Policy is available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS Accession Number ML082520457. From this site, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. In addition, the draft Enforcement Policy will be available at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. If you do not have Internet access or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:**

Doug Starkey, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555; [Doug.Starkey@nrc.gov](mailto:Doug.Starkey@nrc.gov), (301) 415-3456.

## SUPPLEMENTARY INFORMATION:

### I. Background

The NRC Enforcement Policy contains the enforcement policy and procedures that the U.S. Nuclear Regulatory Commission (NRC) uses to consider potential enforcement actions in response to apparent violations of NRC requirements. The primary purpose of the Enforcement Policy is to support the NRC's overall safety mission, i.e., to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. Because it is a policy statement and not a regulation, the Commission may deviate from this statement of policy as appropriate under the circumstances of a particular case.

The Enforcement Policy was first published in the **Federal Register** on October 7, 1980 (46 FR 66754), as an interim policy. The Commission published a final version of the Policy on March 9, 1982 (47 FR 9987). The Enforcement Policy has been modified on a number of occasions to address changing requirements and additional experience and on June 30, 1995 (60 FR 34381), a major revision of the Policy was published. The NRC maintains the Enforcement Policy on its Web site at <http://www.nrc.gov>; select Public Meetings and Involvement, Enforcement, and then Enforcement Policy.

The goal of the Policy is to support the NRC's safety and security mission by emphasizing the importance of compliance with regulatory requirements, and encouraging prompt identification, and prompt, comprehensive correction of violations. Revisions to the Policy have consistently reflected this commitment: for example, in 1998, the NRC changed its inspection procedures to address the Reactor Oversight Process (ROP) initiative. This has been reflected in the Policy's use of risk insights to assess the significance of violations whenever possible. While this may result in fewer Notices of Violation being issued (because of a greater emphasis on the use of non-cited violations), it has not reduced the agency's emphasis on the importance of compliance with NRC requirements. Another example involves the NRC's development of a pilot program in 2005 which focuses on the use of Alternative Dispute Resolution (ADR) for certain kinds of enforcement cases. The NRC enforcement staff has used ADR to resolve reactor, fuel facility, and materials enforcement cases. While the use of ADR in enforcement raises unique issues, it emphasizes creative,