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**Vicky D'Onofrio,**

*Federal Register Liaison Officer.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-443]

### FPL Energy Seabrook, LLC, Seabrook Station, Unit No. 1; Notice 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 No. NPF-86 issued to FPL Energy Seabrook, LLC (the licensee), for operation of the Seabrook Station, Unit No. 1, located in Rockingham County, New Hampshire.

The proposed amendment would revise the allowed outage times of Technical Specification 3.3.3.6, "Accident Monitoring Instrumentation," to be consistent with the completion times in the related specification in NUREG-1431, Revision 3, "Standard Technical Specifications Westinghouse Plants."

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.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), Section 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:

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

The proposed changes revise the actions and allowed outage times (AOT) for

inoperable post-accident monitoring (PAM) instrumentation. The PAM instrumentation is not an initiator of any previously evaluated accident. Furthermore, the PAM instruments are passive devices; the instruments do not actuate or control any plant systems or components. As a result, the probability of any accident previously evaluated is not increased by these proposed changes. While this change extends the AOT for inoperable instruments, the Technical Specifications will continue to require the availability of operable PAM instrumentation for monitoring and assessing specific plant parameters during and following an accident. The PAM instruments have no impact on the ability of systems to perform the safety functions of shutting down the reactor, removing decay heat, controlling radioactive releases, or mitigating accident consequences. The length of time that a PAM instrument has been inoperable has no effect on the consequences of an accident should an accident occur. As a result, extending the AOT for these instruments will not significantly increase the consequences of accidents previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any [accident] previously evaluated.

The proposed changes neither install or remove any plant equipment, nor alter the design, physical configuration, or mode of operation of any plant structure, system, or component. The accident monitoring instrumentation consists of passive devices and is not an initiator of any accident. No physical changes are being made to the plant, so no new accident causal mechanisms are being introduced. Therefore, operation of the facility in accordance with the proposed amendments will not create the possibility of a new or different kind of accident from any previously evaluated.

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

The proposed changes do not alter the design, configuration, operation, or function of any plant system, structure, or component. The ability of any operable structure, system, or component to perform its designated safety function is unaffected by this change. These proposed changes allow an appropriate time to restore inoperable PAM instruments to operable status when one or more channels of a required instrument function become inoperable. The additional time to restore an inoperable channel to operable status is appropriate based on the low probability of an event requiring the accident monitoring instrumentation during the interval, providing a reasonable time for repair of the instrumentation, and alternate means of obtaining the required information. Moreover, with the exception of the containment post-LOCA [loss-of-coolant accident] high range area monitor (as currently licensed) this change retains the requirement to shut down the plant if less than a minimum number of instrument channels of the required parameters are operable. Therefore, operation of the facility in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

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 30 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 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after 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 and Directives Branch, Division of Administrative 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 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

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

Within 60 days after the date of publication of this notice, 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 2.309, which is available at the Commission's 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 from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. (**Note:** Public access to ADAMS has been temporarily suspended so that security reviews of publicly available documents may be performed and potentially sensitive information removed. Please check the NRC Web site for updates on the resumption of ADAMS access.) If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, 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 general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the basis for 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/requestor 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. The petition must include 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/requestor who fails to satisfy 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.

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 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.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)-(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-

0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV); or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to M. S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408-0420, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated October 22, 2004, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (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, 301-415-4737, or by e-mail to [pdrc@nrc.gov](mailto:pdrc@nrc.gov). (**Note:** Public access to ADAMS has been temporarily suspended so that security reviews of publicly available documents may be performed and potentially sensitive information removed. Please check the NRC Web site for updates on the resumption of ADAMS access.)

Dated in Rockville, Maryland, this 27th day of October 2004.

For the Nuclear Regulatory Commission.

**Scott P. Wall,**

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

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## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-219]

### **AmerGen Energy Company, LLC; Oyster Creek Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of Title 10 of the Code of Federal Regulations (10 CFR) part 50, appendix J, for Facility Operating License No. DPR-16, which authorizes operation of the Oyster Creek Nuclear Generating Station (OCNGS), a boiling-water reactor facility, located in Ocean County, New Jersey. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

#### **Environmental Assessment**

##### *Identification of the Proposed Action*

Title 10 of the Code of Federal Regulations (10 CFR) part 50, appendix J, Option B, section III.B., "Type B and C Tests," states, in part, that containment leakage tests must demonstrate that the sum of the leakage rates at accident pressure of Type B tests, and pathway leakage rates from Type C tests, is less than the performance criterion ( $L_a$ ) with margin as specified in the Technical Specifications (TSs). In this context, "accident pressure,"  $P_a$ , was previously analyzed to be 35 psig at OCNGS. Accordingly, for main steam isolation valves (MSIVs), leakage rate testing is to be done at the peak containment calculated pressure related to the design-basis accident.

The licensee requested a permanent exemption from the requirements of the subject provision of appendix J, such that the MSIVs may be tested at lower pressures but not lower than 20 psig. By separate application also dated December 23, 2003, the licensee proposed to revise the OCNGS TSs, section 4.5.D, to specify the lower test pressure and associated leakage test rate; the NRC staff will address the proposed amendment by separate correspondence.

The proposed action is in accordance with the licensee's application for exemption dated December 23, 2003.

##### *The Need for the Proposed Action*

The licensee stated that, as a result of the design of the inboard and outboard MSIVs on each steam line, the preferred method of Type C testing is through the use of a between-the-valves test tap. Periodic Type C testing verifies that the leakage assumed in the radiological analysis is not exceeded. The licensee is requesting this exemption in order to reduce the probability of lifting the inboard MSIVs during testing. Testing of the two valves simultaneously at  $P_a$ , by pressurizing between the valves tends to lift the disc of the inboard valve. This results in test results which may not accurately reflect the isolation capabilities of the MSIVs.

The licensee proposed an exemption from the requirements of 10 CFR part 50, appendix J, Option B, section III.B, by specifying testing at a minimum of 20 psig, instead of  $P_a$ , between the inboard and outboard MSIVs. This pressure would avoid lifting the disc of the inboard MSIV. The measured leakage rate for any one main steam line through the isolation valves will be limited to a proposed pathway leakage value of 11.9 standard cubic feet per hour (this proposed value will be evaluated in the safety evaluation of the associated amendment). All the changes addressed by the requested exemption (and associated amendment) are concerned with MSIV testing only, and do not affect MSIV design functions.

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

The NRC has completed its safety evaluation of the proposed action and concludes that the alternative measures proposed by the licensee and discussed above will provide assurance that the primary reactor containment is an essentially leak tight barrier against uncontrolled release of radioactivity to the environment. The performance of the containment, including the MSIVs, will not be negatively affected by the proposed exemption. The details of the NRC staff's safety evaluation will be provided in the exemption.

The proposed exemption will not significantly increase the probability or consequences of accidents. No changes are being made in the types or quantities of radiological effluents that may be released. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC staff concludes that there are no significant environmental impacts associated with the proposed action.

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

As an alternative to the proposed action, the NRC 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*

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for OCNGS, dated December 1974, published by the Atomic Energy Commission.

##### *Agencies and Persons Consulted*

In accordance with its stated policy, on October 13, 2004, the NRC staff consulted with the New Jersey State official, Mr. Rich Pinney of the New Jersey Department of Environmental Protection, Bureau of Nuclear Engineering, regarding the environmental impact of the proposed action. 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 dated December 23, 2003. 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 O1F21, 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://>