

IV

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, It is hereby ordered, effective immediately, that:

1. Finis Scott Bandy is prohibited from involvement in activities licensed by the NRC for a period of 5 years. NRC-licensed activities are those that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Finis Scott Bandy is currently involved with another employer in NRC-licensed activities, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

3. For the five-year period after the above period has expired, Mr. Bandy will notify the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, within 20 days of the first time he accepts employment in NRC-licensed activities, as defined in Paragraph IV.1 above. In the notification, he will include a statement of his commitment to comply with regulatory requirements and address why the NRC should have confidence that he will comply with regulatory requirements, and the name, address and telephone number of his employer or entity where he will be involved in licensed activities.

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Bandy of good cause.

V

In accordance with 10 CFR 2.202, Mr. Bandy must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this

Order and shall set forth the matters of fact and law on which Mr. Bandy, or any other such person adversely affected, relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to Mr. Bandy. If a person other than Mr. Bandy requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Bandy or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Bandy may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order, on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for a hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland this 19th day of November 1997.

For The Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 97-31521 Filed 12-1-97; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-382]

Entergy Operations, Inc.; 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-38 issued to Entergy Operations Inc., (the licensee) for operation of the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana.

The proposed amendment would increase the Spent Fuel Pool storage capacity and increase the maximum fuel enrichment from 4.9 w/o (nominal weight percent) to 5.0 w/o U-235. This proposed modification will be accomplished by removing the existing racks in the Spent Fuel Pool and replacing them with higher density racks. The neutron absorber (BORAL) for the new racks, has been licensed by the NRC for use in other nuclear power plant spent fuel storage applications.

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 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.

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

In the analysis of the safety issues concerning the expanded pool storage capacity, the following previously postulated accident scenarios have been considered:

a. A spent fuel assembly drop in the Spent Fuel Pool.

b. Loss of Spent Fuel Pool cooling flow.

c. A seismic event.

d. An accidental drop of a fully loaded fuel shipping cask.

The probability that any of the accidents in the above list can occur is not significantly increased by the modification itself. The probabilities of a seismic event or loss of Spent Fuel Pool cooling flow are not influenced by the proposed changes. The probabilities of accidental fuel assembly or shipping cask drops are primarily influenced by the methods used to lift and move these loads. The method of handling loads during normal plant operations remains unchanged, since the same equipment (i.e., Spent Fuel Handling Machine and Cask Handling Crane) and procedures will be used. A new offset handling tool will be required to access some storage rack cells located adjacent to the pool walls. The grapple mechanism, procedures, and fuel manipulation methods will be very similar to those used by the standard fuel handling tool on the Spent Fuel Handling Machine. Therefore, this tool does not represent a significant change in the methods used to lift or move fuel in the Fuel Handling Building. Since the methods used to move loads during normal operations remain nearly the same as those used previously, there is no significant increase in the probability of an accident.

During rack removal and installation, all work in the pool area will be controlled and performed in strict accordance with specific written procedures. Any movement of fuel assemblies required to be performed to support the modification (e.g., removal and installation of racks) will be performed in the same manner as during normal refueling operations. Shipping cask movements will not be performed during the modification period.

Accordingly, the proposed modification does not involve a significant increase in the probability of an accident previously evaluated.

The consequences of the previously postulated scenarios for an accidental drop of a fuel assembly in the Spent Fuel Pool have been re-evaluated for the proposed change. The results show that the postulated accident of a fuel assembly striking the top of the storage racks will not distort the racks sufficiently to impair their functionality. The resulting structural damage to a falling assembly and/or a stored assembly has been determined to remain unchanged. The minimum subcriticality margin, Keff less than or equal to 0.95, will be maintained. The structural damage to the Fuel Handling

Building, pool liner, and fuel assembly resulting from a fuel assembly drop striking the pool floor or another assembly located within the racks remains unchanged. The resulting structural damage to these items subsequent to this event is not influenced by the proposed changes. The radiological dose at the exclusion area boundary will increase due to the changes in fuel enrichment and burnup. The previously calculated doses to the thyroid and whole body were 0.47 and 0.11 rem, respectively. The new thyroid and whole body doses based on the proposed change will be 0.553 and 0.304, respectively. These dose levels are extremely small when compared to the levels required by 10 CFR 100. Therefore, the increase in dose is not considered a significant increase in consequence. Thus, the results of the postulated fuel drop accidents remain acceptable and do not represent a significant increase in consequences from any of the same previously evaluated accidents.

The consequences of a loss of Spent Fuel Pool cooling have been evaluated and found to have no increase. The concern with this accident is a reduction of Spent Fuel Pool water inventory from bulk pool boiling resulting in uncovering fuel assemblies. This situation would lead to fuel failure and subsequent significant increase in offsite dose. Loss of spent fuel pool cooling at Waterford 3 is mitigated by ensuring that a sufficient time lapse exists between the loss of forced cooling and uncovering fuel. This period of time is compared against a reasonable period to re-establish cooling or supply an alternative water source (such as fire water). Evaluation of this accident usually includes determination of the time to boil. This time period is much less than the onset of any significant increase in offsite dose, since once boiling begins it would have to continue unchecked until the pool surface was lowered to the point of exposing active fuel. The time to boil represents the onset of loss of pool water inventory and is commonly used as a gage for establishing the comparison of consequences before and after a refueling project. The heat up rate in the Spent Fuel Pool is a nearly linear function of the fuel decay heat load. The fuel decay heat load will increase subsequent to the proposed changes because of the increase in the number of assemblies and higher fuel burnups. The heat up rate established for the limiting normal heat load conditions prior to reracking was 5.41°F per hour. This would result in the pool temperature

increasing from the maximum normal temperature of 140 °F to boiling in a period of 13.3 hours. The heat up rate established for the limiting normal heat load conditions subsequent to the proposed changes has been determined as 13.6 °F per hour. This would result in the pool temperature increasing from the maximum normal temperature of 140 °F to boiling in a period of 5.3 hours.

This time to boil comparison was made for limiting normal heat load conditions. However, the end of this period of time does not represent the onset of any significant increase in offsite doses. As stated above, this consequence would result subsequent to fuel being uncovered through unchecked boiling and resulting water level drop of approximately 24.5 feet from normal surface to the top of the fuel storage racks. This depth is conservative, since the top of active fuel is below this level. Subsequent to the proposed changes under limiting normal heat loads the time lapse between the onset of unchecked boiling and uncovering of the racks has been determined to exceed 50 hours.

As stated above in the safety assessment, subsequent to reracking, the time to boil after loss of forced cooling in the most severe scenario is 2.89 hours (the ensuing rate of evaporative loss would not result in the fuel being uncovered until after an additional 34 hours, which is 168 hours after reactor shutdown). However, the design basis limiting pool heat load under these conditions actually decreases after the proposed modification, because of conservatism previously used to determine the heat load for this condition. Therefore, the calculated time to boil in this most severe scenario will increase subsequent to the proposed modification. In the unlikely event that all pool cooling is lost, sufficient time will be available subsequent to the proposed changes for the operators to provide alternate means of cooling (i.e., fire water) before fuel is uncovered. Therefore, the proposed changes represents no increase in the consequences of loss of pool cooling.

The consequences of a design basis seismic event are not increased. The consequences of this accident are evaluated on the basis of subsequent fuel damage or compromise of the fuel storage or building configurations leading to radiological or criticality concerns. The new racks have been analyzed in their new configuration and found safe during seismic motion. Fuel has been determined to remain intact and the storage racks maintain the fuel and fixed poison configurations

subsequent to a seismic event. The structural capability of the pool and liner will not be exceeded under the appropriate combinations of dead weight, thermal, and seismic loads. The Fuel Handling Building structure will remain intact during a seismic event and will continue to adequately support and protect the fuel racks, storage array, and pool moderator/coolant. Thus, the consequences of a seismic event are not increased.

The consequences of a spent fuel cask drop into the Cask Storage Pit have been analyzed along with the new rack storage configuration. This evaluation concluded that there is no increase in consequences. Administrative controls, appropriate changes in load paths, and crane travel limits will continue to preclude handling heavy loads above stored fuel. Therefore, casks impacting stored fuel is not a postulated event. Potential damage to the cask and contained fuel remain unchanged, since the pertinent parameters for this analysis (i.e., lift height, weight, impact zone configurations, etc.) are not affected by the new rack configurations. The floor was reanalyzed to assess the effect of the additional loading from higher density fuel storage. It was determined that the floor remains intact with minor local crushing of concrete. The liner plate would sustain limited damage, which is repairable. Leakage would be limited to flow through the leak chase system and would be collected at the sump. The Fuel Handling Building integrity would not be compromised; therefore, there would be no release of contaminated pool water outside of the building. Makeup water from the Condensate Storage Pool and/or the Refueling Water Storage Tank would be adequate to offset loss of water inventory due to any leakages. This accident does not result in any increase in offsite or Fuel Handling Building doses. Thus, the proposed changes do not represent any increase in the consequences of a postulated spent fuel cask drop.

Therefore, it is concluded that the proposed changes do not significantly increase the probability or consequences of any accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

To assess the possibility of new or different kind of accidents, a list of the critical parameters required to ensure safe fuel storage was established. Safe fuel storage is defined here as providing an environment which would not present any significant threats to workers or the general public. In other words, meeting the requirements of 10

CFR 100 and 10 CFR 20. Any new events which would modify these parameters sufficiently to place them outside of the boundaries analyzed for normal conditions and/or outside of the boundaries previously considered for accidents would be considered a new or different accident. The criticality and radiological safety evaluations were reviewed to establish the list of critical parameters. The fuel configuration and the existence of the moderator/coolant were identified as the only two parameters which were critical to safe fuel storage. Significant modification of these two parameters represents the only possibility of an unsafe storage condition. Once the two critical parameters were established, an additional step was taken to determine what events (which were not previously considered) could result in changes to the storage configuration or moderator/coolant presence during or subsequent to the proposed changes. This process was adopted to ensure that the possibility of any new or different accident scenario or event would be identified.

Due to the proposed changes, the following events were considered as the only events which might represent a new or different kind of accident:

- a. An accidental drop of a rack module during construction activity in the pool.
- b. Draining the Cask Storage Pit and Refueling Canal through the floor drains.
- c. Fuel assembly mispositioning accident in Region 2.

A construction accident resulting in a rack drop is an unlikely event. A new rack lifting rig will be introduced to lift and suspend all but one of the racks using the existing Fuel Handling Building Cranes. Either a new temporary hoist or a combination of one of the existing 15 ton cranes and a lifting bag will be used to lift one of the existing eighty cell racks that is adjacent to the east wall of the Spent Fuel Pool. The cranes, hoists and lifting rig have been or will be designed using the guidance of NUREG-0612 and ANSI N14.6. The postulated rack drop event is commonly referred to as a "heavy load drop" over the pools. Heavy loads will not be allowed to travel over any racks containing fuel assemblies. The danger represented by this event is that the pool structure will be compromised leading to loss of moderator/coolant, which is one of the two critical parameters identified above. However, although the analysis of this event has been performed and shown to be acceptable, the question of a new or different type of event is answered by

determining whether heavy load drops over the pool have been considered previously. The postulated drop of a pool gate was previously evaluated and represents a heavy load drop similar to a rack drop. All movements of heavy loads over the pool will comply with the applicable administrative controls and guidelines (i.e. plant procedures, NUREG-0612, etc.). Therefore, the rack drop does not represent a new or different kind of accident.

The Cask Storage Pit and Refueling Canal both have floor drains which will be plugged (a welded closed cover plate) prior to installation of the new storage racks in each of the respective areas. The plugs will preclude any water loss through the drain system. Therefore, draining the Cask Storage Pit and Refueling Canal through the floor drains is not a postulated event.

Fuel assembly mispositioning in Region 2 is an unlikely event, since locating assemblies which do not meet the burnup criteria will be administratively controlled. Administrative controls will consist of developing a checkerboarding storage pattern in the Region 2 racks prior to storage or placement of the non-compliant fuel in Region 1 racks. The Region 2 mispositioning event represents a change from the previously analyzed condition, since Waterford 3 currently has only Region 1 style storage. Therefore, a new fuel storage configuration is possible. However, the event does not represent a new or different kind of accident, since fuel assembly mispositioning is possible with the existing racks through controlled or uncontrolled (assembly drop) lowering of an assembly adjacent to the outside of the storage racks. This condition was previously evaluated and found to be acceptable. The new event was evaluated using similar techniques with similar acceptance criteria and was shown to remain acceptable. Therefore, due to the similarity of this new event with that which was previously analyzed it is not considered to represent a new or different kind of accident.

The proposed change does not alter the operating requirements of the plant or of the equipment credited in the mitigation of the design basis accidents. The proposed change does not affect any of the important parameters required to ensure safe fuel storage. Therefore, the potential for a new or previously unanalyzed accident is not created.

3. Involve a significant reduction in the margin of safety.

The function of the Spent Fuel Pool is to store the fuel assemblies in a

subcritical and coolable configuration through all environmental and abnormal loadings, such as an earthquake or fuel assembly drop. The new rack design must meet all applicable requirements for safe storage and be functionally compatible with the Spent Fuel Pool.

EOI has addressed the safety issues related to the expanded pool storage capacity in the following areas:

- a. Material, mechanical, and structural considerations.
- b. Nuclear criticality.
- c. Thermal-hydraulic and pool cooling.

The mechanical, material and structural designs of the new racks have been reviewed in accordance with the applicable provisions of the NRC Guidance entitled "Review and Acceptance of Spent Fuel Storage and Handling Applications". The rack materials used are compatible with the spent fuel assemblies and the Spent Fuel Pool environment. The design of the new racks preserves the proper margin of safety during abnormal loads such as a dropped assembly and tensile loads from a stuck assembly. It has been shown that such loads will not invalidate the mechanical design and material selection to safely store fuel in a coolable and subcritical configuration.

The methodology used in the criticality analysis of the expanded Spent Fuel Pool meets the appropriate NRC guidelines and the ANSI standards (GDC 62, NUREG 0800, Section 9.1.2, NRC Guidance entitled, "Review and Acceptance of Spent Fuel Storage and Handling Applications", Reg. Guide 1.13, and ANSI ANS 8.17). The margin of safety for subcriticality is maintained by having the neutron multiplication factor equal to, or less than, 0.95 under all accident conditions, including uncertainties. This criterion is the same as that used previously to establish criticality safety evaluation acceptance and remains satisfied for all analyzed accidents. Therefore, the accepted margin of safety remains the same.

The thermal-hydraulic and cooling evaluation of the pool demonstrated that the pool can be maintained below the specified thermal limits under the conditions of the maximum heat load and during all credible accident sequences and seismic events. The pool temperature will not exceed 140 °F during the worst single failure of a cooling pump. The maximum local water temperature in the hot channel will remain below the boiling point. The fuel will not undergo any significant heat-up after an accidental drop of a fuel assembly on top of the rack blocking the flow path. A loss of cooling to the pool will allow sufficient time (5.3 hours for

the limiting normal heat load) for the operators to intervene and line up alternate cooling paths and the means of inventory make-up before the onset of pool boiling. The thermal limits specified for the evaluations performed to support the proposed change are the same as those which were used in the previous evaluations. Therefore, the accepted margin of safety remains the same.

Thus, it is concluded that the changes do 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 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 in the **Federal Register** 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.

Written comments may be submitted by mail to the Chief, Rules 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 January 2, 1998, 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 University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122. 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 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 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.

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:*

Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. 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 N.S. Renolds, Esq., Winston & Stran, 1400 L Street, N.W., Washington, D.C. 20005-3502, 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).

The Commission hereby provides notice that this a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWSA), 42 U.S.C. 10154. Under section 134 of the NWSA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWSA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41670, October 15, 1985) to 10 CFR 2.1101 *et seq.* Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within 10 days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, Subpart G, and 2.714 in particular, continue to govern the filing of requests

for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in adjudicatory hearing. If no party to the proceedings requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G, apply.

For further details with respect to this action, see the application for amendment dated March 27, 1997, as supplemented on April 3, and November 13, 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 New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Dated at Rockville, Maryland, this 20th day of November 1997.

For the Nuclear Regulatory Commission.

Chandu P. Patel,

Project Manager, Project Directorate IV-1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97-31517 Filed 12-1-97; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-245]

Northeast Nuclear Energy Company; Millstone Nuclear Power Station, Unit No. 1, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from Facility Operating License No. DPR-21, issued to Northeast Nuclear Energy Company (NNECO or the licensee), for operation of the Millstone Nuclear Power Station, Unit 1 (Millstone Unit 1), located in New London County, Connecticut.