

Limited English Proficiency,” and United States Department of Justice Guidance as published in the **Federal Register**, Vol. 65, No. 159, August 16, 2000. Pursuant to its coordination authority over federal enforcement of Title VI, DOJ addressed in 1976 the circumstances under which recipient/covered entities might be required to provide written language assistance to LEP persons. See 28 CFR 42.405(d)(1). These regulations “govern the respective obligations of Federal agencies regarding enforcement of Title VI.” 28 CFR 42.405. Section 42.405(d)(1) formalized LEP obligations under Title VI which were sustained by the Supreme Court in *Lau v. Nichols*, 414 U.S. 563 (1974). Thus, this Guidance draws its authority from Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, *et seq.*; 45 CFR, Part 611 (NSF’s Title VI Regulations); and 28 CFR 42.401, *et seq.* (DOJ Title VI enforcement coordination regulation). Further, this Guidance is issued pursuant to Executive Order 12250, reprinted at 42 U.S.C. § 2000d, note; Executive Order 13166; and is consistent with the DOJ LEP Guidance.

III. Purpose and Application

The Title VI regulations prohibit both intentional discrimination and policies and practices that appear neutral but have a discriminatory effect. Thus, a recipient entity’s policies or practices regarding the provision of benefits and services to LEP persons need not be intentional to be discriminatory, but may constitute a violation of Title VI if they have an adverse effect on the ability of national origin minorities to meaningfully access programs and services. Accordingly, it is useful for recipient entities to examine their policies and practices to determine whether they adversely affect LEP persons. This policy guidance provides a brief analytical framework consistent with the governing Title VI compliance standards set out in the DOJ LEP Guidance to assist recipient/covered entities in conducting such assessments.

IV. Compliance and Enforcement

A four-factor analysis is recommended for compliance. Elements of an effective language assistance plan to consider are identification of LEP individuals who need language assistance, available language assistance options, training staff, providing notice to LEP persons, and monitoring effectiveness and need for modifications. It should consist of a determination of the number or proportion of eligible individuals with LEP who might be excluded from a

program absent efforts to remove language barriers, their frequency of contact with the program, the nature and importance of the program (is it vital to your existence?) and the resources available. Once it is established that a need exists, one or both of two types of language assistance may be appropriate. Oral language interpretation and/or written material translation may be selected as necessary. These factors, plan elements, and their related compliance standards are discussed in detail in related guidance documents issued by other federal agencies. NSF recipients jointly funded by other federal agencies may rely upon guidance issued by those agencies.

Recipient entities have considerable flexibility in determining how to comply with their legal obligation in the LEP setting and are not required to use the suggested methods and options listed. However, recipient entities must establish and implement policies and procedures for providing language assistance sufficient to fulfill their Title VI responsibilities and provide LEP persons with meaningful access to services. NSF’s regulations implementing Title VI contain compliance and enforcement provisions to ensure that a recipient’s policies and practices overcome barriers resulting from language differences that would deny LEP persons an equal opportunity to participate in and access to programs, services and benefits offered by NSF. See 45 CFR, Part 611. We will ensure that our recipient entities fulfill their responsibilities to LEP persons through the procedures provided for in the Title VI regulations.

Executive Order 13166 requires that each federal department or agency extending federal financial assistance subject to Title VI issue separate guidance implementing uniform Title VI compliance standards with respect to LEP persons. Where recipients of federal financial assistance from NSF also receive assistance from one or more other federal departments or agencies, there is no obligation to conduct and document separate but identical analyses and language assistance plans for NSF. NSF, in discharging its compliance and enforcement obligations under Title VI, looks to analyses performed and plans developed in response to similar detailed LEP guidance issued by other federal agencies. Recipients may rely upon guidance issued by those agencies.

In determining a recipient entity’s compliance with Title VI, NSF’s primary concern is to ensure that the entity’s policies and procedures

overcome barriers resulting from language differences that would deny LEP persons a meaningful opportunity to participate in and access programs, services and benefits. A recipient entity’s appropriate use of the methods and options discussed in this policy guidance is viewed by NSF as evidence of that entity’s willingness to comply voluntarily with its Title VI obligations.

V. English-only Provision

State and local laws may provide additional obligations to serve LEP individuals, but such laws cannot compel recipients of federal financial assistance to violate Title VI. For instance, given our constitutional structure, state or local “English-only” laws do not relieve an entity that receives federal funding from its responsibilities under federal anti-discrimination laws. Entities in states and localities with “English-only” laws are certainly not required to accept federal funding—but if they do, they have to comply with Title VI, including its prohibition against national origin discrimination by recipients of federal assistance. Failing to make federally assisted programs and activities accessible to individuals who are LEP, in certain circumstances, violates Title VI.

If you have any questions related to this policy, please contact the NSF Office of Equal Opportunity Programs.

[FR Doc. 01–6918 Filed 3–19–01; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

Arizona Public Service Company, et al.; Palo Verde Nuclear Generating Station, Units 1, 2, and 3, 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 amendments to Facility Operating License Nos. NPF–41, NPF–51, and NPF–74 issued to Arizona Public Service Company (the licensee) for operation of the Palo Verde Nuclear Generating Station, Units 1, 2, and 3 (PVNGS) located in Maricopa County, Arizona.

The proposed amendments request dated February 28, 2001, would revise the definitions of engineered safety

feature response time and reactor protection system response time in Technical Specification (TS) 1.1, "Definitions," to add the following statement: "In lieu of measurement, response time may be verified for selected components provided that the components and methodology for verification have been previously reviewed and approved by the NRC." Approval of the amendments will allow either an allocated sensor response time or a measured sensor response time for the identified Reactor Protection System and Engineered Safety Features Actuation System pressure sensors when performing response time testing. The licensee has requested that the NRC staff expedite its review of the proposed amendments so that the amendments may be issued during the upcoming PVNGS Unit 1 refueling outage in April 2001. The amendments would reduce the occupational exposure for required surveillances of these pressure sensors during refueling outages.

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. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment to Technical Specification (TS) 1.1, Definitions, allows substitution of an allocated sensor response time in lieu of measuring sensor response time. Response time is not an initiator of any accident previously evaluated. The allocated pressure sensor response times allowed in lieu of measurement have been determined to adequately represent the response time of the components such that the safety systems utilizing those components will continue to

perform their accident mitigation function as assumed in the safety analysis. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment to TS 1.1, Definitions, allows the substitution of an allocated sensor response time in lieu of measuring sensor response time testing. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The use of allocated response times in lieu of measured response times result[s] in no physical change to the plant. [Response time is not an initiator of an accident.] Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed amendment to TS 1.1, Definitions, allows the substitution of an allocated sensor response time in lieu of measured sensor response time for certain pressure sensors. The allocated pressure sensor response times allowed in lieu of measurement have been determined to adequately represent the response time of the components such that the safety systems utilizing those components will continue to perform their accident mitigation function as assumed in the safety analysis. Therefore, this change does not involve a significant reduction in a 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 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. Copies of written comments received may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

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

By April 19, 2001, 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, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Electronic Reading Room). 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, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 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 Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 28, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Electronic Reading Room).

Dated at Rockville, Maryland, this 14th day of March 2001.

For the Nuclear Regulatory Commission.

Jack N. Donohew,

Senior Project Manager, Section 2 Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01-6816 Filed 3-19-01; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-366]

Southern Nuclear Operating Company, Inc., et al; 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-5 issued to the Southern Nuclear Operating Company, Inc., et al (the licensee) for operation of Edwin I. Hatch Nuclear Plant, Unit 2, located in Appling County, Georgia.

The proposed amendment would allow Mode 2 (startup) operation with two required intermediate range monitor (IRM) channels and will be in effect only until the Fall 2001 refueling outage.

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. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The intermediate range monitors (IRMs) monitor neutron flux levels in the reactor core during startup. The IRM detectors are