NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413, 50–414, 50–369 and 50–370]

Duke Energy Corporation, et al., Catawba Nuclear Station, Units 1 and 2; McGuire Nuclear Station, Units 1 and 2; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–9 and NPF–17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Unit Nos. 1 and 2 (McGuire), located in Mecklenburg County, North Carolina and to Facility Operating License Nos. NPF–35 and NPF–52, issued to Duke Power Company, *et al.* (the licensee), for operation of the Catawba Nuclear Station (CNS), Units 1 and 2, located in York County, South Carolina.

The proposed amendments, requested by the licensee in a letter dated February 27, 2003, would revise the Technical Specifications (TSs) to allow the use of four mixed oxide (MOX) lead assemblies at either the Catawba Nuclear Station or the McGuire Nuclear Station. The licensee has proposed changes to two sections of the TSs that address the storage of MOX fuel assemblies in the spent fuel storage racks: Section 3.7.15, ''Spent Fuel Assembly Storage'' and Section 4.3, ''Fuel Storage.'' The licensee has also proposed changes to TS Section 4.2, ''Reactor Core,'' to reflect the use of MOX fuel in addition to the currently specified slightly enriched uranium dioxide fuel and to reflect the use of fuel rods clad with an M5™ zirconium alloy that has a different material specification than the materials currently referenced in the TS. Associated changes are proposed for TS Section 5.6.5, ''Core Operating Limits Report (COLR),'' to add several more methodologies that will be used to develop the limits that will be included in the COLR. Associated changes have also been proposed for the TS Bases section.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By August 25, 2003, 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, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/NRC/CFR/index.html.* If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* 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 a 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.

A request for a hearing and 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 Ms. Lisa F. Vaughn, Legal Department (ECIIX), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006, 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)(l)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92. For further details with respect to the proposed action, see the licensee's application dated February 27, 2003. Documents may be examined, and/or copied for a fee, at the NRC's Public Document room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 21st day of July, 2003.

For the Nuclear Regulatory Commission.

Robert E. Martin, Sr.,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 030–09164]

Environmental Assessment and Finding of No Significant Impact Related to Issuance of a License Amendment of U. S. Nuclear Regulatory Commission Byproduct Material License No. 47–15473–01, Charleston Area Medical Center

I. Summary

The U.S. Nuclear Regulatory Commission (NRC) is considering amending Byproduct Material License No. 47–15473–01 to authorize the release of one of the licensee's facilities located on Pennsylvania Avenue in Charleston, West Virginia, for unrestricted use and has prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) in support of this action.

The NRC has reviewed the results of the final survey of Laboratory 304 located at 830 Pennsylvania Avenue in Charleston, West Virginia. The Charleston Area Medical Center was authorized by the NRC from August 31, 1995 until the present to use radioactive materials for research and development purposes at the Pennsylvania Avenue facility. The authorization was limited to the in-vitro use of small quantities of Hydrogen-3, Carbon-14, Phosphorous-32, and Iodine-125. In September 2002, the Charleston Area Medical Center ceased operations with licensed materials at the Pennsylvania Street location and requested that it be removed from their materials license as a place of use. The Charleston Area Medical Center has conducted surveys of the facility and determined that the facility meets the license termination criteria in Subpart E of 10 CFR Part 20. The NRC staff has evaluated the Charleston Area Medical Center's request and the results of the surveys, performed a confirmatory survey, and has developed an EA in accordance with the requirements of 10 CFR Part 51. Based on the staff evaluation, the conclusion of the EA is a Finding of No Significant Impact on human health and the environment for the proposed licensing action.

II. Environmental Assessment

Introduction

The Charleston Area Medical Center has requested release, for unrestricted use, of their facility located at Suite 304, 830 Pennsylvania Avenue, in Charleston, West Virginia, as authorized for use by NRC License No. 47–15473–01. This location of use was authorized on August 31, 1995. NRC-licensed activities performed at the Pennsylvania Avenue location were limited to laboratory procedures typically performed on bench tops and in hoods. No outdoor areas were affected by the use of licensed materials. Licensed activities ceased completely in September 2002, and the licensee requested release of the facility for unrestricted use. Based on the licensee's historical knowledge of the site and the condition of the facility, the licensee determined that only routine decontamination activities, in accordance with licensee radiation safety procedures, were required. The licensee surveyed the facility and provided documentation that the facility meets the license termination criteria specified in Subpart E of 10 CFR part 20, ''Radiological Criteria for License Termination.''

The Proposed Action

The proposed action is to amend NRC Radioactive Materials License No. 47–15473–01 to release one of the licensee's facilities located at Suite 304, 830 Pennsylvania Avenue, in Charleston, West Virginia, for unrestricted use. By letter dated September 3, 2002, the Charleston Area Medical Center provided survey results which demonstrate that the Pennsylvania Avenue facility in Charleston, West Virginia is in compliance with the radiological criteria for license termination in Subpart E of 10 CFR Part 20, ''Radiological Criteria for License Termination.'' No further actions or activities are required on the part of the licensee to remediate the facility.

Purpose and Need for the Proposed Action

The purpose of the proposed action is to release the licensee's Pennsylvania Avenue facility for unrestricted use and to remove the location as an authorized place of use from the materials license. This will allow the licensee to make other use of the facility. There is no residual radioactivity remaining at the facility that is distinguishable from background levels. NRC is fulfilling its responsibilities under the Atomic Energy Act to make a decision on a proposed license amendment for release of facilities for unrestricted use that ensures protection of public health and safety and environment.

Alternative to the Proposed Action

The only alternative to the proposed action of amending the license to release the Pennsylvania Avenue facility for unrestricted use is no action. The no-action alternative is not acceptable because it will result in violation of NRC's Timeliness Rule (10 CFR 30.36), which requires licensees to decommission their facilities when licensed activities cease. The licensee does not plan to perform any activities with licensed materials at these locations. Maintaining the area under a license would also reduce options for future use of the property.

The Affected Environment and Environmental Impacts

The licensee's place of use within Laboratory 304 is located in a four story concrete and stucco medical offices building adjacent to the Charleston Area Medical Center's Women and Children's Hospital. The hospital is surrounded by similar type construction office buildings.

The NRC staff has reviewed the surveys performed by the Charleston Area Medical Center to demonstrate compliance with the 10 CFR 20.1402 license termination criteria and has performed a confirmatory survey. Based