

Protection regulations and ADOT&PF's internal policies and procedures.

3. Within 60 days of completing the review required by Condition 1 above, ADOT&PF shall submit for NRC approval a long-term plan for maintaining a Safety Conscious Work Environment. The plan shall include a discussion of the results of the review required by Condition 1 above, including a discussion of recommendations made by the individual(s) and ADOT&PF's plan and schedule for addressing the recommendations. The long-term plan shall describe a procedure for evaluating and approving future changes to the plan. The long-term plan shall, at a minimum, address a time period through calendar year 2005. The plan shall include the following elements.

(A) ADOT&PF shall perform an employee cultural survey which is developed by a consultant or entity that is independent of ADOT&PF. The long-term plan shall specify which ADOT&PF workers, supervisors and managers shall be included in the survey. At a minimum, the survey instrument (*i.e.*, questionnaire) shall be made available to workers, including temporary workers, involved in the use of licensed material and the radiation safety program, as well as the supervisors and managers of these individuals. At a minimum, this survey shall be performed in calendar years 2004 and 2005. ADOT&PF shall provide the NRC with annual reports for the years 2004 and 2005 summarizing the findings of the cultural survey, including the questions used, the methodology applied, and any follow-up actions. The survey shall be conducted such that the individual employee responses shall be kept confidential from management.

(B) ADOT&PF shall conduct annual refresher training of workers, including temporary workers, involved in the use of licensed material and the radiation safety program, as well as the supervisors and managers of these individuals. The long-term plan shall specify which ADOT&PF workers, supervisors and managers shall receive refresher training. No additional training in calendar year 2004 is needed beyond that required by Condition 2 above. Subsequent annual refresher training shall include a discussion of the NRC Employee Protection regulations and other applicable federal and state laws pertaining to whistleblower protection, ADOT&PF's policies and procedures for maintaining a Safety Conscious Work Environment, and the roles and responsibilities of the statewide and regional radiation safety

officers in assuring compliance with NRC radiation safety requirements.

(C) The refresher training conducted in calendar year 2005 shall be conducted by individual(s) independent of ADOT&PF who meet Condition 1.(A) above. ADOT&PF's plan shall specify the minimum qualifications for individuals (including ADOT&PF personnel) who may provide Safety Conscious Work Environment training in subsequent years.

(D) ADOT&PF shall request an amendment to its license to require that its long-term plan for maintaining a Safety Conscious Work Environment be maintained and implemented. The license amendment request shall be submitted concurrent with submitting the long-term plan.

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

#### V

Any person adversely affected by this Confirmatory Order, other than the Licensee, 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, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to the Licensee. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to (301) 415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and propose at least

one admissible contention, addressing the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by 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 Confirmatory Order should be sustained.

In the absence of any request for 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 Confirmatory 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. A request for hearing shall not stay the immediate effectiveness of this Order.

Dated this 15th day of March, 2004.

For the Nuclear Regulatory Commission.

**Frank Congel,**

*Director, Office of Enforcement.*

[FR Doc. 04-6423 Filed 3-22-04; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-499]

### STP Nuclear Operating Company, 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-80 issued to STP Nuclear Operating Company (the licensee) for operation of the South Texas Project (STP) Unit 2 located in Matagordo County, Texas.

The proposed amendment would allow STP Unit 2 to change modes with standby diesel generator (SDG) 22 inoperable. This is a one-time change that would expire 14 days after entering Mode 4 on restart from the STP Unit 2 Spring 2004 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 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. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

SDG 22 provides onsite electrical power to one of three trains of vital systems should offsite electrical power be interrupted. It is not an initiator to any accident previously evaluated. Therefore, allowing a mode change with SDG 22 out-of-service will not increase the probability of an accident previously evaluated.

SDG 22 acts to mitigate the consequences of design-basis accidents that assume a loss of offsite power. For that purpose, redundant standby diesel generators are provided to protect against a single failure. During the Technical Specification allowed outage time, an operating unit is allowed by the Technical Specifications to remove one of the standby diesel generators from service, thereby losing this single-failure protection. This operating condition is considered acceptable. The consequences of a design-basis accident coincident with a failure of the redundant standby diesel generator during the extended allowed outage time are the same as those during the 14-day allowed outage time. Therefore, during the changes in mode there is no significant increase in consequences of an accident previously evaluated.

Therefore, the proposed change will 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 accident from any accident previously evaluated?

There are no new failure modes or mechanisms created due to plant operation for changing mode with an inoperable standby diesel generator. The proposed change does not involve any modification in the operational limits or physical design of plant systems. There are no new accident precursors generated due to permitting mode changes with an inoperable standby diesel generator.

Therefore, the proposed 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?

Plant mode changes with an [ ] inoperable [DG] have been shown to have a very small impact on plant risk using the criteria of RG [Regulatory Guide] 1.174 and RG 1.177. During the mode change, the electrical power system maintains the ability to perform its safety function of providing an available source of power to the Engineered Safety Feature (ESF) systems as assumed in the accident analyses. During the mode change with an inoperable standby diesel generator, risk impact will be managed through the application of 10 CFR 50.65(a)(4) and its implementation guidance, NRC Regulatory Guide 1.182, "Assessing and Managing Risks Before Maintenance Activities at Nuclear Power Plants." The results of the risk assessment will be considered in determining the acceptability of entering the mode or other specified condition in the Applicability, and any corresponding risk management actions.

Therefore, the proposed change does not involve a significant reduction in a margin of safety as defined in the basis for any Technical Specification.

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/>. 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 requestor's/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 bases 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 A. H. Gutterman, Esq., Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue, NW., Washington, DC 20004, the attorney for the licensee.

For further details with respect to this action, see the application for amendment dated March 4, 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 [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 17th day of March 2004.

For the Nuclear Regulatory Commission.

**Michael K. Webb,**

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

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste; Meeting on Planning and Procedures; Notice of Meeting

The ACNW will hold a Planning and Procedures meeting on April 20, 2004, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACNW, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

**Tuesday, April 20, 2004—8:30 a.m.–12 Noon**

The Committee will discuss proposed ACNW activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Howard J. Larson (Telephone: 301/415–6805) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.