

material circumstances that did not exist when the rule was written. The current Appendix K rule presumes that the 2 percent margin accounts for uncertainties associated with measurement of thermal power. Contributors to the uncertainty were not identified at the time the rule was written and the magnitude of the uncertainty was not demonstrated by experiment or analysis. The rule does not require quantification of actual uncertainties, nor does the regulatory history reflect any detailed technical basis for the choice of a 2 percent margin. Therefore, the Commission has determined that special circumstances as defined in 10 CFR 50.12(a)(2)(ii), (iv), and (vi) are present.

The Commission hereby grants the licensee an exemption from the requirements of 10 CFR Part 50, Appendix K to allow ECCS evaluation model assumptions to be conducted at no less than 1.01 times licensed power level when the quantification of power measurement uncertainty can be justified by the use of the Caldon LEFM System instrumentation. The granting of this exemption does not, however, provide authority to increase the licensed power of CPSES, Units 1 and 2. A separate license amendment to increase licensed power level, for each licensed unit, will be required to be submitted and approved before such authority may be provided for that unit.

Pursuant to 10 CFR 51.32, the Commission has determined that granting of this exemption will have no significant effect on the quality of the human environment (64 FR This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 6th day of May 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-11996 Filed 5-11-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-445 and 50-446]

Texas Utilities Electric Company, et al. Comanche Peak Steam Electric Station, Units 1 and 2; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, 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-87 and NPF-89 issued to Texas Utilities Electric Company, et al. (the licensee), for operation of the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, respectively. The CPSES facility is located at the licensee's site in Somervell County, Texas.

The proposed amendments would revise the Technical Specifications for fuel storage to increase the spent fuel storage capacity, to add fuel pool boron concentration, and to revise the storage configurations in the spent fuel pool.

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.

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 amendments 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. Do the proposed changes involve a significant increase in the probability or consequence of an accident previously evaluated?

This proposed license amendment includes changes which are (1) editorial and (2) provide the criteria for acceptable fuel storage in high density racks. The editorial changes are purely administrative changes and have no impact on the probability or consequences of an accident. The revised criteria for acceptable fuel storage in the high density racks are discussed below.

The high density racks differ from the low density racks in that the center to center

storage cell spacing is decreased from a nominal 16 inches to a nominal 9 inches and the high density racks are free standing whereas the low density racks are bolted to the pool. Administrative controls are used to maintain the specified storage patterns and to assure storage of a fuel assembly in a proper location based on initial U-235 enrichment, burnup, and decay time. The increased storage capacity results in added weight in the pools and additional heat loads.

There is no significant increase in the probability of an accident concerning the potential insertion of a fuel assembly in an incorrect location in the high density racks. TU [Texas Utilities] Electric has used administrative controls to move fuel assemblies from location to location since the initial receipt of fuel on site. Fuel assembly placement will continue to be controlled pursuant to approved fuel handling procedures and will be in accordance with the Technical Specification spent fuel rack storage configuration limitations.

There is no increase in the probability of the loss of normal cooling to the fuel storage pool water due to the presence of soluble boron in the pool water for subcriticality control because a concentration of soluble boron similar to that proposed has always been maintained in the fuel storage pool water. The amount of soluble boron required to offset the reactivity increase associated with water temperature outside the normal range was established for the proposed storage configurations.

The consequences of all of these changes have been assessed and the current acceptance criteria in the licensing basis of CPSES will continue to be met. The nuclear criticality, thermal-hydraulic, mechanical, material and structural designs will accommodate these changes. Potentially affected analyses, including a dropped spent fuel assembly, a loss of spent fuel pool cooling, a seismic event, and a fuel assembly placed in a location other than a prescribed location, continue to satisfy the CPSES licensing basis acceptance criteria. The analysis methods used by TU Electric are consistent with methods used by TU Electric in the past or methods used elsewhere in the industry and accepted by the NRC.

Based on the acceptability of the methodology used and compliance with the current CPSES licensing basis, TU Electric concludes that the full use of the high density racks and the increase in storage capacity do not involve a significant increase in the probability or consequences of an accident previously evaluated.

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

The editorial changes to the Technical Specifications have no impact on plant hardware or operations and therefore cannot create a new or different kind of an accident.

The potential for criticality in the fuel storage pool is not a new or different type of accident. The potential criticality accidents have been reanalyzed in the criticality analysis (Enclosure 1 [to the application]) to demonstrate that the pool remains subcritical.

Soluble boron has been maintained in the fuel storage pool water since its initial operation. The possibility of a fuel storage pool dilution is not affected by the proposed change to the Technical specifications. Therefore, the implementation of Technical Specification controls for the soluble boron will not create the possibility of a new or different kind of accidental pool dilution.

With credit for soluble boron now a major factor in controlling subcriticality, an evaluation of fuel storage pool dilution events was completed. The results of the evaluation concluded that an event which would result in a reduction of the criticality margin below the 5% margin recommended by the NRC is not credible. In addition, the no soluble boron 95/95 criticality analysis assures that a boron concentration of 0 ppm will not result in criticality.

The proposed changes which ensure the maintenance of the fuel storage pool boron concentration and storage configuration, do not represent new concepts. The actual boron concentration in the fuel storage pool is currently maintained at 2400 ppm for SFP [spent fuel pool]1 and SFP2 for refueling purposes. The criticality analysis (Enclosure 2 [to the application]) determined that a boron concentration of 750 ppm (non-accident) and 1800 ppm (accident) results in a k_{eff} [less than or equal to] 0.95.

There is no significant change in plant configuration, equipment design, or usage of plant equipment. The safety analysis for boron dilution has been performed; however, the criticality analyses assure that the pool will remain subcritical with no credit for soluble boron. Therefore, the proposed changes will not create the possibility of a new or different kind of accident.

3. Do the proposed changes involve a significant reduction in a margin of safety?

The proposed editorial changes to the Technical Specifications have no impact on any acceptance criteria, plant operations or the actual failure of any systems, components or structure; therefore these administrative changes have no impact on the margin of safety.

The NRC guidance [Reference 4 [in the application]] has established that an evaluation of margin of safety should address the following areas: (1) Nuclear criticality considerations, (2) Thermal-Hydraulic considerations, (3) Mechanical, material and structural consideration.

Proposed Technical Specifications 3.7.16, 3.7.17, and 4.3.1.1 and the associated fuel storage pool boron concentration and storage requirements will provide adequate margin to assure that the fuel storage array will always remain subcritical by the 5% margin recommended by the NRC. Those limits are based on the criticality analysis (Enclosure 2 [to the application]) performed in accordance with the storage rack criticality analysis methodology described in Reference 8 [in the application].

While the criticality analysis utilized credit for soluble boron, the storage configurations have been defined using k_{eff} calculations to ensure that the spent fuel rack k_{eff} will be less than 1.0 with no soluble boron.

Soluble boron credit is used to offset off-normal conditions (such as a misplaced

assembly) and to provide subcritical margin such that the fuel storage pool k_{eff} is maintained less than or equal to 0.95.

The loss of substantial amount of soluble boron from the spent fuel pools which could lead to exceeding a k_{eff} of 0.95 has been evaluated and shown not to be credible. These evaluations show that the dilution of the spent fuel [pool's] boron concentration from 1800 ppm to 750 ppm is not credible and that the spent fuel rack k_{eff} will remain less than 1.0 when flooded with unborated water.

The thermal-hydraulic evaluation demonstrates that the temperature margin of safety will be maintained. Evaluation of the spent fuel pool cooling system for the increased heat loads shows that the spent fuel cooling system will maintain the abnormal maximum temperature of the spent fuel pool water within the limits of the existing licensing basis (i.e., below 212° F). Additionally, it shows that the normal maximum temperature will be within the existing design basis temperatures for the high density racks, liner, structure, and cooling system and will not have any significant impact on the spent fuel pool demineralizers. Thus, the existing licensing basis remains valid, and there is no significant reduction in the margin of safety for the thermal-hydraulic design or spent fuel cooling.

The main safety function of the spent fuel pool and the high density racks is to maintain the spent fuel assemblies in a safe configuration through normal and abnormal operating conditions. The design basis floor responses of the Fuel Building were confirmed to be adequate and conservative and the floor loading will not exceed the capacity of the Fuel Building. The structural considerations of the high density racks maintain margin of safety against tilting and deflection or movement, such that the high density racks do not impact each other or the pool walls, damage spent fuel assemblies, or cause criticality concerns. Thus, the margin of safety with respect to mechanical, material or structural considerations is not significantly reduced by the full use of the high density racks.

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 amendments 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 amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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's 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 June 11, 1999, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses 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 Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas. 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 amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

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 George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036, 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 is a proceeding on an application for license amendments 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 Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 dated October 15, 1985). 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 ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a 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 must 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 an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and 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 amendments dated February 11, 1999, 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 Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas.

Dated at Rockville, Maryland, this 4th day of May 1999.

For the Nuclear Regulatory Commission.
David H. Jaffe,
Senior Project Manager, Section 1, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.
 [FR Doc. 99-11998 Filed 5-11-99; 8:45 am]
 BILLING CODE 7590-01-P

OFFICE OF THE TRADE REPRESENTATIVE

Notification of Locations and Times for Public Hearings

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Trade Policy Staff Committee (TPSC) notification of locations and times for public hearings.

SUMMARY: A notice was published in the *Federal Register* on April 14, 1999 (Vol. 64, No. 71, page 18469) announcing TPSC public hearings to be held in Washington, DC; Chicago, IL; Atlanta, GA; Los Angeles, CA; and Dallas, TX. That notice invited oral testimony and/or written comments of interested parties to assist the Administration in its efforts to develop proposals and positions concerning the agenda of the third Ministerial Conference of the World Trade Organization (WTO). This notice announces the specific times and locations for the hearings in each city.
FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments and/or public hearings contact Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative at (202) 395-3475. All other questions concerning the WTO negotiations should be addressed to the agency's Office of WTO and Multilateral Affairs at (202) 395-6843.

SUPPLEMENTARY INFORMATION: All hearings will begin at 9:30 a.m. Following receipt of requests to testify, witnesses will be notified directly of their scheduled date and time to appear. The exact locations of the hearings are as follows:

Washington, May 19-20 (and 21, if necessary): White House Conference Center, Truman Room, 726 Jackson Place, NW, Washington, DC 20502
 Chicago, June 7 (and 8, if necessary): James R. Thompson Center, Room 9-040, 100 West Randolph Street, Chicago, IL 60601
 Atlanta, June 10 (and 11, if necessary): Richard B. Russell Federal Building, Main Auditorium, 75 Spring Street, Southwest, Atlanta, GA 30303
 Los Angeles, June 21 (and 22, if necessary): Central Library, Los

Angeles Public Library, Mark Taper Auditorium, 630 West Fifth Street, Los Angeles, California 90071
 Dallas, June 24 (and 25, if necessary): Federal Reserve Bank of Dallas Auditorium, 2200 North Pearl Street, Dallas, Texas 75210

All deadlines remain the same as stated in the previous notice.

Frederick L. Montgomery,
Chairman, Trade Policy Staff Committee.
 [FR Doc. 99-11931 Filed 5-11-99; 8:45 am]
 BILLING CODE 3901-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Annual Report on Discrimination in Foreign Government Procurement Pursuant to Executive Order 13116 ("Title VII")

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States Trade Representative ("USTR") has submitted the annual report on discrimination in foreign government procurement, published herein, to the Committees on Finance and on Governmental Affairs of the United States Senate and the Committees on Ways and Means and on Government Reform and Oversight of the United States House of Representatives, pursuant to the reinstituted procedures of Title VII of the Omnibus Trade and Competitiveness Act of 1988 ("Title VII"), as amended, as set forth in Executive Order No. 13116 of March 31, 1999.

DATES: The report was submitted on April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Stephen Kho, Assistant General Counsel, Office of the US Trade Representative, 600 17th Street, NW, Washington, DC 20508, 202-395-3581.

SUPPLEMENTARY INFORMATION: The text of the USTR report is as follows:

Office of the United States Trade Representative, Washington, DC

April 30, 1999

Annual Report on Discrimination in Foreign Government Procurement

I. Legal Authority

On March 31, 1999, the President signed Executive Order 13116, which largely reinstitutes the provisions of Title VII of the Omnibus Trade and Competitiveness Act of 1988 ("Title VII"), as amended. Under the Executive

Order, the United States Trade Representative ("USTR") is required to submit to the Congress by April 30 of each year a report identifying foreign countries:

(1) That have failed to comply with their obligations under the WTO Agreement on Government Procurement ("GPA"), Chapter 10 of the North American Free Trade Agreement, or other agreements relating to government procurement to which that country and the United States are parties; or

(2) That maintain, in government procurement, a significant pattern or practice of discrimination against U.S. products or services which results in identifiable harm to U.S. businesses, when those countries' products or services are acquired in significant amounts by the U.S. Government.

Within 90 days of the submission of the report, USTR must initiate under section 301 of the Trade Act of 1974, as amended, an investigation with respect to any country identified in the report, unless USTR determines that a satisfactory resolution of the matter has been achieved. If the matter is not resolved during that period and USTR determines that the rights of the United States under an international procurement agreement are being violated, or that any discriminatory procurement practices exist, the Executive Order requires USTR, *inter alia*, to initiate formal dispute settlement proceedings under the international agreement in question or revoke any waivers for purchasing requirements granted to the discriminating foreign country.

Title VII has been a useful and effective tool in challenging foreign governments' procurement barriers. The reinstitution of Title VII procedures through Executive Order 13116 sends a strong signal that the President is committed to protecting U.S. interests in international procurement markets.

II. Identification of Foreign Countries and their Discriminatory Procurement Practices

From 1991 to 1996, USTR conducted six annual reviews under Title VII. During that time, six identifications were formally made, while numerous potentially discriminatory government procurement practices were noted. USTR achieved satisfactory resolution with respect to eight discriminatory or potentially discriminatory practices, including a GATT dispute settlement proceeding, with regard to the procurement of an electronic toll booth collection system in Norway, in which the panel found in favor of the United States.