

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 November 24, 1995, 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 Exeter Public Library, Founders Park, Exeter, NH 03833. 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, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Phillip F. McKee: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Lillian M. Cuoco, Esquire, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270, 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 September 20, 1995, 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 Exeter Public Library, Founders Park, Exeter, NH 03833.

Dated at Rockville, Maryland, this 19th day of October 1995.

For the Nuclear Regulatory Commission.

Albert W. De Agazio, Sr.,

*Project Manager, Project Directorate I-3,
Division of Reactor Projects—I/II, Office of
Nuclear Reactor Regulation.*

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[Docket No. 50-390]**Tennessee Valley Authority, Watts Bar Power Station, Unit 1**

Exemption

I

Tennessee Valley Authority (TVA, the applicant) is the holder of Construction Permit CPPR-91, which authorizes the construction of Watts Bar Power Station, Unit 1 (WBN, the facility). Construction permit applications must contain emergency plans pursuant to 10 CFR 50.34. 10 CFR 50.34(b)(6)(v) provides that the Final Safety Analysis Report will contain plans for coping with emergencies, which shall include the items in Appendix E of 10 CFR Part 50. When converting from a construction permit to a license upon completion of the construction or alteration of a facility in compliance with the terms and conditions of the construction permit and subject to any necessary testing of the facility for health or safety purposes, the Commission will, in the absence of good cause shown to the contrary, issue a license of the class for which the construction permit was issued or an appropriate amendment of the license, as the case may be. An operating license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect. The facility will consist of two pressurized water reactors located at the licensee's site in Rhea County, Tennessee, even though only one is being considered for an operating license at this time.

II

Section IV.F.2(a) of Appendix E of 10 CFR Part 50 requires that a full participation exercise be conducted within 2 years before the issuance of the first operating license for full power (one authorizing operation above 5 percent of rated power) of the first reactor and shall include participation by each State and local government within the plume exposure pathway emergency planning zone (EPZ) and each State within the ingestion pathway exposure EPZ.

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a), are (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Section 50.12(a)(2) of 10 CFR Part 50 describes the special circumstances for an exemption. Special circumstances are present when the application of the

regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule [10 CFR 50.12(a)(2)(ii)]. The underlying purpose of Appendix E, Section IV.F.2(a) is to demonstrate the integrated capabilities of appropriate local and State authorities and licensee personnel to adequately assess and respond to an accident at a commercial nuclear power plant within 2 years before the issuance of the first operating license for full power (authorizing operation above 5 percent of rated power) of the first reactor. Special circumstances are also present when compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted [10 CFR 50.12(a)(2)(iii)]. Additionally, special circumstances are present when the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation [10 CFR 50.12(a)(2)(v)].

III

By letter dated July 19, 1995, as supplemented by letters dated July 26, and September 6, 1995, TVA requested an exemption from the ingestion pathway portion of the requirement of Appendix E of 10 CFR Part 50 to conduct a prelicensing full-participation exercise of the Watts Bar Emergency Plan in 1995. TVA plans to conduct a full-participation emergency preparedness exercise, limited to the 10-mile plume exposure pathway EPZ, in November 1995. The Watts Bar plant, in conjunction with the State of Tennessee and the Counties of McMinn, Meigs, Rhea, Cumberland, and Roane, conducted a full participation emergency preparedness exercise, which included both the plume exposure and ingestion exposure pathway EPZs, on October 6-7, 1993. Offsite emergency response activities associated with the exercise were evaluated by the Federal Emergency Management Agency (FEMA) and the onsite emergency response activities were evaluated by the NRC. The NRC's evaluation of onsite emergency response activities is documented in Inspection Report 50-390/93-64, dated November 15, 1993. The report states that no violations, deviations, or exercise weaknesses were identified. It also states that the October 6-7, 1993, full-participation emergency preparedness exercise demonstrated the ability of the applicant's emergency response organization to respond to a simulated

emergency condition and to implement its radiological emergency plan and implementing procedures.

FEMA's final exercise report for the October 1993 exercise, dated August 11, 1994, identified one deficiency. This deficiency involved the inability of the State of Tennessee to demonstrate the capability to provide both an alert signal and an initial instructional message to the populated areas throughout the 10-mile plume EPZ within 15 minutes of the decision to activate the alert and notification system to implement a protective action decision. The deficiency was shown to be corrected during a remedial exercise conducted on November 15, 1993. The FEMA report also indicates that the States of North Carolina and Georgia lie within the WBN 50-mile ingestion exposure pathway EPZ. These states did not participate in the October 1993 exercise because the State of Georgia participated in the 1992 exercise at the Vogtle site and the State of North Carolina participated in the 1991 exercise at the McGuire site. No deficiencies were noted concerning ingestion pathway exposure activities in the State of Tennessee during the October 1993 exercise. FEMA concluded that, based on the results of the October 6-7, 1993, exercise and the November 15, 1993, remedial exercise, the offsite radiological emergency response plans and preparedness for the State of Tennessee and the affected local jurisdictions, site specific to the Watts Bar Nuclear Plant, can be implemented and are adequate to provide reasonable assurance that appropriate measures can be taken to protect the health and safety of the public in the event of a radiological emergency at the site.

TVA's exemption request extends only to that portion of the full-participation, prelicensing exercise requirement that provides for an ingestion exposure pathway (50 miles) exercise of the type that plants licensed for full-power operations are required to conduct once every 6 years. Section IV.F.(2)(d) of Appendix E of 10 CFR Part 50 indicates that States should participate in the ingestion pathway portion of exercises at least once every 6 years. As noted above, the State of Tennessee participated in an ingestion exposure pathway exercise at Watts Bar in October 1993. It also participated in an ingestion exposure pathway exercise at Sequoyah in 1992. In anticipation of receiving an operating license in 1985, TVA conducted its first pre-license full-participation exercise on September 11, 1984. A second prelicensing full participation exercise was conducted on July 25, 1985, before TVA suspending

its efforts to obtain the operating license for Watts Bar Unit 1.

In a letter dated July 3, 1995, the Tennessee Emergency Management Agency (TEMA) indicated that the State and local governments in the Watts Bar area have conducted three full-participation exercises for Watts Bar since 1983 with the last on October 6-7, 1993. TEMA stated that another licensing exercise for Watts Bar would not be cost effective in that the State and local governments exercise both the Watts Bar and Sequoyah plans regularly and the same personnel participate in both the Watts Bar and Sequoyah exercises. TEMA also noted that the State of Tennessee has participated in exercises since the late 1970's and no problems have been experienced at either site with offsite programs. Consequently, these State and local government agencies would be required to duplicate past efforts at significant expense. Additionally, TEMA did not budget for State participation in a second prelicensing full-participation WBN exercise in calendar year 1995, since the frequency requirements for State participation in the emergency plan exercise would have been met under the previous schedule for the licensing of WBN. If the prelicensing 50-mile ingestion pathway requirement is not exempted, it is estimated that an additional \$160,000 would be expended by the State. Furthermore, State resources have been strained in responding to six major emergencies which have occurred in the last 15 months, including tornadoes, flooding and ice storms. The State has spent in excess of \$30 million mitigating the consequences of these major emergencies. TEMA further states that the local government agencies did not include funding for another prelicensing full-participation exercise in calendar year 1995. Consequently, they would have to redirect financial and personnel resources to support such an effort. Since TVA and the State and local governments depend heavily upon volunteer organizations to support the radiological emergency preparedness program, there is concern that the repeated use of the volunteers in emergency exercises would lessen their enthusiasm for support of another ingestion pathway exercise.

The staff's last Systematic Assessment of Licensee Performance (SALP) report (Inspection Report Nos. 50-390/94-41 and 50-391/94-41) for Watts Bar for the period of June 13, 1993 through June 18, 1994, indicates that the emergency preparedness program was excellent, emergency response training was strong, and that TVA's emergency response

facilities were good and capable of supporting emergency operations. Additionally, the report indicated that individuals demonstrated knowledge of duties and an ability to respond to emergency conditions and mitigate the consequences during the October 1993 full-scale exercise and that TVA conducted thorough critiques and was timely in correcting identified problems.

The exemption from the ingestion exposure pathway exercise portion of Section IV(F)(2)(a) to Appendix E of 10 CFR Part 50 would provide relief from what was originally intended as a "one-time" prelicense exercise requirement. As discussed above, TVA has already conducted three full-participation plume and ingestion pathway exercises to support anticipated operating license scheduled dates. In view of past and planned emergency planning efforts and successful results, TVA has made good faith efforts to fully comply with the prelicense emergency exercise rule. If WBN does not obtain a full-power operating license within 2 years of the November 1995 exercise, another prelicensing full-participation exercise, to include both the plume and ingestion exposure pathway EPZs, will have to be conducted.

IV

On the basis of its review of the applicant's request for an exemption from the requirement to conduct the ingestion exposure pathway portion of the qualifying full-participation exercise of the Watts Bar Emergency Plan, the staff finds that the underlying purpose of the regulation has been achieved through the applicant's conduct of the ingestion exposure pathway portion of the October 6-7, 1993, full participation exercise at Watts Bar and the ingestion exposure pathway portion of the September 1992 full-participation exercise at Sequoyah. In addition, because the States of Georgia and North Carolina have participated in ingestion pathway exercises at other nuclear power plant sites within their respective borders, as well as the fact that only limited actions are required of these States in the WBN ingestion pathway exposure EPZ, the staff concludes the underlying purpose for their potential participation in the ingestion pathway portion of the November 1995 exercise at WBN has been achieved. FEMA concurs with this exemption.

For these reasons, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the applicant is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security and that

special circumstances are present as set forth in 10 CFR 50.12(a) (ii), (iii), and (v).

Pursuant to 10 CFR 51.32, the Commission has determined that granting of this exemption will have no significant impact on the environment (60 FR 53814, dated October 17, 1995). A copy of the applicant's request for exemption and supporting documentation is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC and at the local public document room located at Chattanooga-Hamilton Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 17th day of October 1995.

For The Nuclear Regulatory Commission.
Steven A. Varga,

*Director, Division of Reactor Projects—I/II,
Office of Nuclear Reactor Regulation.*

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[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Company; 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 Nos. DPR-24 and DPR-27, issued to Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Plant, Units 1 and 2, located in the Town of Two Creeks, Manitowoc County, Wisconsin.

The proposed amendments would revise Technical Specification (TS) Section 15.1, "Definitions," the basis for TS Section 15.3.1.G, "Operational Limitations," and TS Figure 15.2.1-2, "Reactor Core Safety Limits, Point Beach Unit 2." The proposed changes would reduce the reactor coolant system raw measured total flow rate limit and reflect new reactor core safety limits for Unit 2.

The licensee stated that these changes may be required to support full power operation of Unit 2 following its annual outage, which has already begun. The licensee further stated that the submittal was timely, based on the circumstances (a vendor analysis was required), and that the exigency could not have been avoided. The staff agrees with this conclusion.