

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

**SUMMARY:** The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 26, "Fitness for Duty Program."
2. *Current OMB approval number:* 3150-0146.
3. *How often the collection is required:* On occasion.
4. *Who is required or asked to report:* All licensees authorized to construct or operate a nuclear power reactor; all licensees authorized to use, possess, or transport Category 1 nuclear material; and contractors/vendors who have developed a fitness-for-duty program that is formally reviewed and approved by a licensee, which meets the requirements of part 26.
5. *The number of annual respondents:* 69.

6. *The number of hours needed annually to complete the requirement or request:* 61,143 (5,853 hours reporting [an average of 4.3 hours/response] and 55,290 hours recordkeeping [an average of 801 hours/recordkeeper]).

7. *Abstract:* 10 CFR Part 26, "Fitness for Duty Program," requires licensees of nuclear power plants, contractors/vendors who have developed a fitness-for-duty program that is formally reviewed by a licensee, and licensees authorized to possess, use, or transport Category 1 nuclear material to implement fitness-for-duty programs to assure that personnel are not under the influence of any substance or mentally or physically impaired, to retain certain records associated with the management of these programs, and to provide reports concerning significant events and program performance. Compliance with these program requirements is mandatory for licensees subject to 10 CFR part 26. In addition, licensees of nuclear power plants are required to comply with security order EA-03-038, which implements work hour controls

for security force personnel and requires licensees to retain certain records associated with the management of this security order.

Submit, by July 25, 2005, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T-5 F53, Washington, DC 20555-0001, by telephone at 301-415-7233, or by internet electronic mail at [infocollects@nrc.gov](mailto:infocollects@nrc.gov).

Dated at Rockville, Maryland, this 18th day of May, 2005.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**  
NRC Clearance Officer, Office of Information Services.

[FR Doc. E5-2632 Filed 5-24-05; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-348 and 50-364]

### Southern Nuclear Operating Company, Inc., Alabama Power Company, Joseph M. Farley Nuclear Plant, Units 1 and 2; Notice of Consideration of Issuance of Amendments to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC, the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-2 and NPF-8, issued to Southern Nuclear

Operating Company, Inc. (the licensee) for operation of the Joseph M. Farley Nuclear Plant (FNP), Units 1 and 2, located in Houston County, Alabama.

The proposed amendments would revise FNP, Units 1 and 2 Technical Specifications Plant Systems Section 3.7 and Design Features Section 4.3 to establish spent fuel cask storage area boron concentration limits and to restrict the minimum burn up of spent fuel assemblies associated with spent fuel cask loading operations.

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

Cask loading operations will not require any physical changes to part 50 structures, systems, or components, nor will their performance requirements be altered. The potential to handle a spent fuel cask was considered in the original design of the plant. Therefore, the response of the plant to previously analyzed Part 50 accidents and related radiological releases will not be adversely impacted, and will bound those postulated during cask loading activities in the cask storage area. Accordingly, the proposed changes do 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?

Existing fuel handling procedures and associated administrative controls remain applicable for cask loading operations. Additionally, the soluble boron concentration required to maintain  $K_{eff} \leq 0.95$  for postulated criticality accidents associated with cask loading operations was also

evaluated. The results of the analyses, using a methodology previously approved by the NRC, demonstrate that the amount of soluble boron required to compensate for the positive reactivity associated with these postulated accidents (659 ppm) remains well below the existing spent fuel pool minimum boron concentration limit of 2000 ppm.

Accordingly, the same limit has been proposed for cask loading operations in the cask storage area. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

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

An NRC approved methodology was used to perform the criticality analysis which provides the basis to incorporate a new burn up versus enrichment curve into the plant Technical Specifications to ensure criticality requirements are met during spent fuel cask loading. Accordingly, the existing minimum boron concentration limit for the spent fuel of 2000 ppm will continue to remain bounding during cask loading operations. Existing criticality limits will also be maintained should it be postulated that the spent fuel pool be flooded when connected to the cask storage area with unborated water ( $K_{eff} < 1.0$ ) or should it become flooded with borated water to 400 ppm ( $K_{eff} \leq 0.95$ ) during cask loading operations. This determination accounts for uncertainties at a 95-percent/95-percent probability/confidence level.

Proposed Technical Specification 3.7.17 requires that the spent fuel transfer canal gate and the cask storage area gate be open except when moving the spent fuel cask into or out of the cask storage area. The cask storage area will be isolated from the spent fuel pool volume during movement of the cask into and out of the cask storage area. Due to the minimal time that spent fuel will be stored in the cask storage area with the cask storage area isolated from the spent fuel pool volume, a boron dilution event is not considered credible while the cask storage area is isolated. However, should it be postulated that a boron dilution event does occur during this time period,  $K_{eff}$  will remain less than 1.0 should the cask storage area become fully flooded with unborated water. Therefore, there will not be a significant reduction in a margin of safety.

Based upon the preceding information, SNC has concluded that the requested license amendment does not involve a significant hazards consideration.

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 O1F21, 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 M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated May 17, 2005, 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 19th day of May, 2005.

For the Nuclear Regulatory Commission,  
**Evangelos Marinos,**

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

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-05004]

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Northern States Power Company D.B.A. Xcel Energy Pathfinder Site, Sioux Falls, SD

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

#### FOR FURTHER INFORMATION CONTACT:

Chad Glenn, Project Manager, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-6722; fax number: (301) 415-5398; e-mail: [cjg1@nrc.gov](mailto:cjg1@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

## I. Introduction

The Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Materials License No. 22-08799-02 issued to Northern States Power Company D.B.A. Xcel Energy (the licensee) to authorize decommissioning at its Pathfinder site in Minnehaha County, South Dakota for unrestricted use and termination of this license. NRC has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR Part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

## II. EA Summary

The purpose of the proposed amendment is to authorize decommissioning of the licensee's Pathfinder site in Sioux Falls, South Dakota for unrestricted use to allow for license termination. Specifically, the proposed amendment would incorporate the Pathfinder Decommissioning Plan (DP) into the license and authorize decommissioning activities in accordance with the DP. On February 17, 2004, Xcel Energy submitted the Pathfinder DP for NRC approval and requested a license amendment. Xcel Energy's request was published in the **Federal Register** on August 4, 2004 (69 FR 47185) with a notice of an opportunity to request a hearing and an opportunity to provide comments on the amendment and its environmental impacts. The NRC staff has received no hearing request or comments on the proposed amendment.

The NRC staff has prepared an EA in support of the proposed license amendment. The staff has reviewed the Pathfinder DP and examined the environmental impacts of decommissioning. Based on its review, the staff has also determined that the environmental impacts are enveloped by the generic analysis performed in support of "Radiological Criteria for License Termination" (62 FR 39058). Additionally, no non-radiological impacts were identified. The staff also finds that the proposed decommissioning of the site is in compliance with 10 CFR 20.1402, the radiological criteria for unrestricted use.

## III. Finding of No Significant Impact

On the basis of the EA, NRC has concluded that there are no significant environmental impacts from the proposed amendment and has