



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

May 5, 1994

Docket No. 50-220

Ben L. Ridings  
P.O. Box 1101  
Kingston, Tennessee 37763

Dear Mr. Ridings:

I am responding to your letter to me dated April 15, 1994, in which you expressed concern about not being furnished copies of P & IDs [piping and instrumentation drawings] used for review of containment integrity at Nine Mile Point Nuclear Station Unit No. 1 (NMP-1). In accordance with 10 CFR 9.15 (Enclosure 1), the NRC will make available for public inspection and copying any reasonably described agency record in the possession and control of the NRC. Records that the NRC makes publicly available in its public document room are described in 10 CFR 9.21 (Enclosure 2). However, as noted in my January 11, 1994, letter to you, the NRC does not maintain copies of a licensee's P & IDs since they are not agency records. The NRC does not have in its possession the NMP-1 P & IDs you requested. Those drawings are the licensee's property and would have to be obtained from the licensee. It would be improper for us to burden the licensee with a request for such drawings for the purpose of furnishing the drawings to a member of the public. Therefore, we did not and are not now providing to you the requested drawings. The drawings and other documents used by the NRC staff during its February 1-5, 1993, onsite inspection of the NMP-1 containment isolation valve program were described in Attachment 1 to combined Inspection Report No. 50-220/93-01 and 50-410/93-01. A copy of combined Inspection Report No. 50-220/93-01 and 50-410/93-01 was provided to you as Attachment 4 to the enclosure of my letter to you dated November 24, 1993.

I apologize to you if you feel that I have insinuated that you did not find any errors at NMP-1. I agree that you did identify deficiencies in the listings of NMP-1 containment isolation valves in the Technical Specification (TS) tables and the Updated Final Safety Analysis Report (UFSAR) tables as compared to the plant drawings. The containment isolation valve deficiencies you identified were considered by the staff and apparently by the licensee in the preparation of License Amendment No. 140 and UFSAR Revision 11. License Amendment No. 140 and UFSAR Revision 11 were issued to bring the TS and UFSAR listings of containment isolation valves into agreement with the plant drawings. Copies of License Amendment No. 140 and the applicable pages of UFSAR Revision 11 were provided to you as Attachments 2 and 3, respectively, to the enclosure of my November 24, 1993, letter to you.

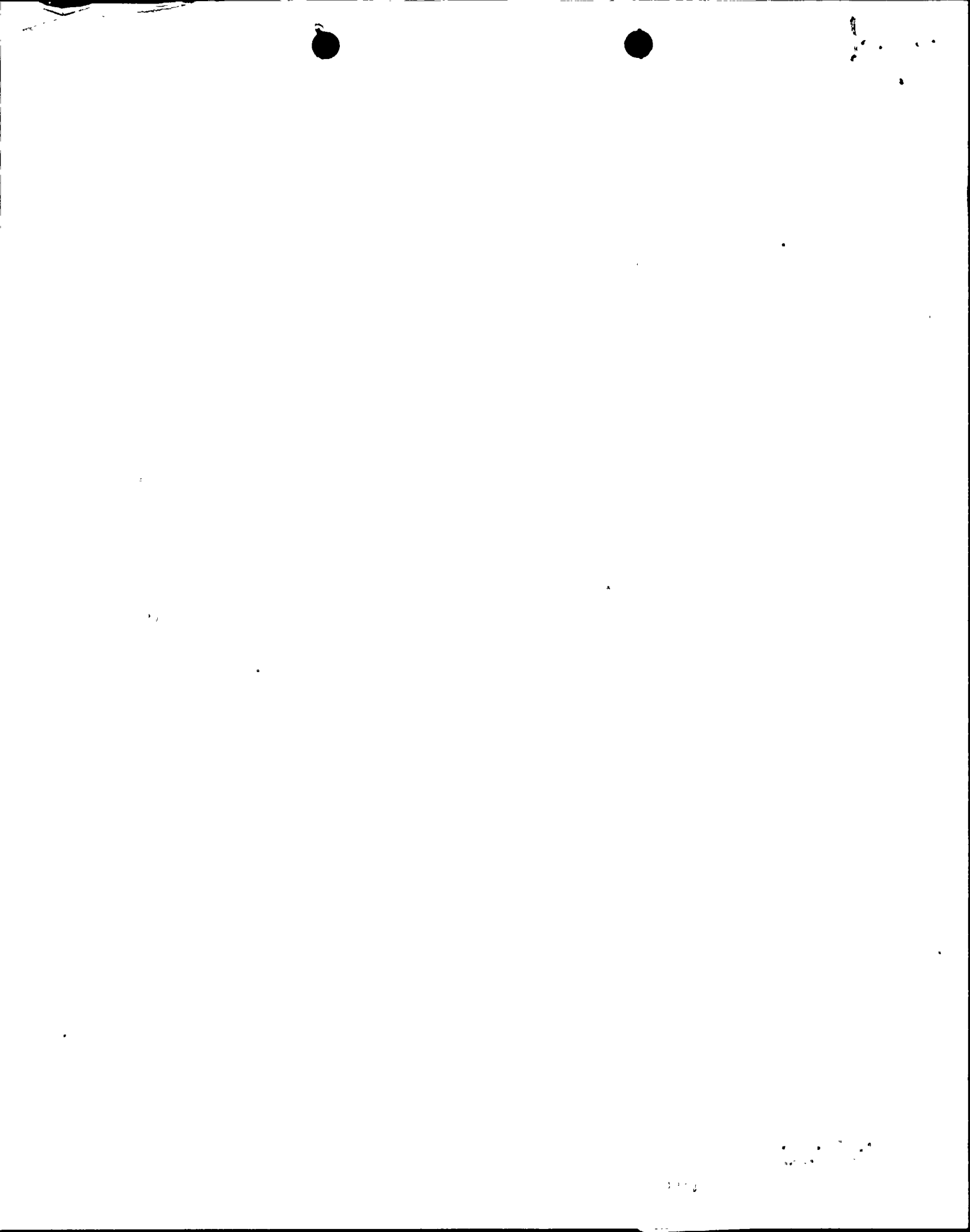
As described in DD-93-10 and in the enclosure to my November 24, 1993, letter to you, the staff considered most of the containment isolation valves deficiencies to be administrative errors. We considered these deficiencies administrative errors since the containment isolation valve listings in the TS and UFSAR tables were inaccurate. We and the licensee were previously aware

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Mr. Ben L. Ridings

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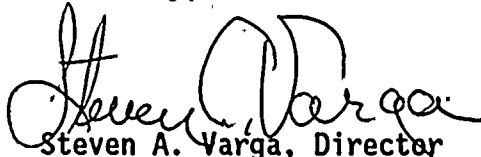
May 5, 1994

of many of them and as confirmed in the staff's February 1-5, 1993, onsite inspection, the containment isolation valves were being properly tested in accordance with all applicable regulatory requirements including the then applicable NMP-1 procedures which we determined were adequate. Other deficiencies identified during the staff's February 1-5, 1993, onsite inspection were also corrected in License Amendment No. 140 and in UFSAR Revision 11. Since you identified your list of errors to the licensee prior to bringing them to the attention of the NRC, it is possible that the licensee corrected many of the other errors you identified prior to the NRC's onsite inspection.

With regard to your request for a list of errors you had correctly identified, the staff provided an evaluation of your concerns in DD-93-10. To the extent you sought correction of the TS and UFSAR tables to correctly list the NMP-1 containment isolation valves, their initiating signals, and their stroke times, this relief was granted in DD-93-10 and implemented by License Amendment No. 140 and by UFSAR Revision 11. Each of your concerns regarding the containment isolation valves identified in the 18 notes listed in Attachment 5 to your October 27, 1992, petition were evaluated and the staff's findings regarding those concerns were provided to you in Attachment 1 to DD-93-10.

I trust this responds to your concerns.

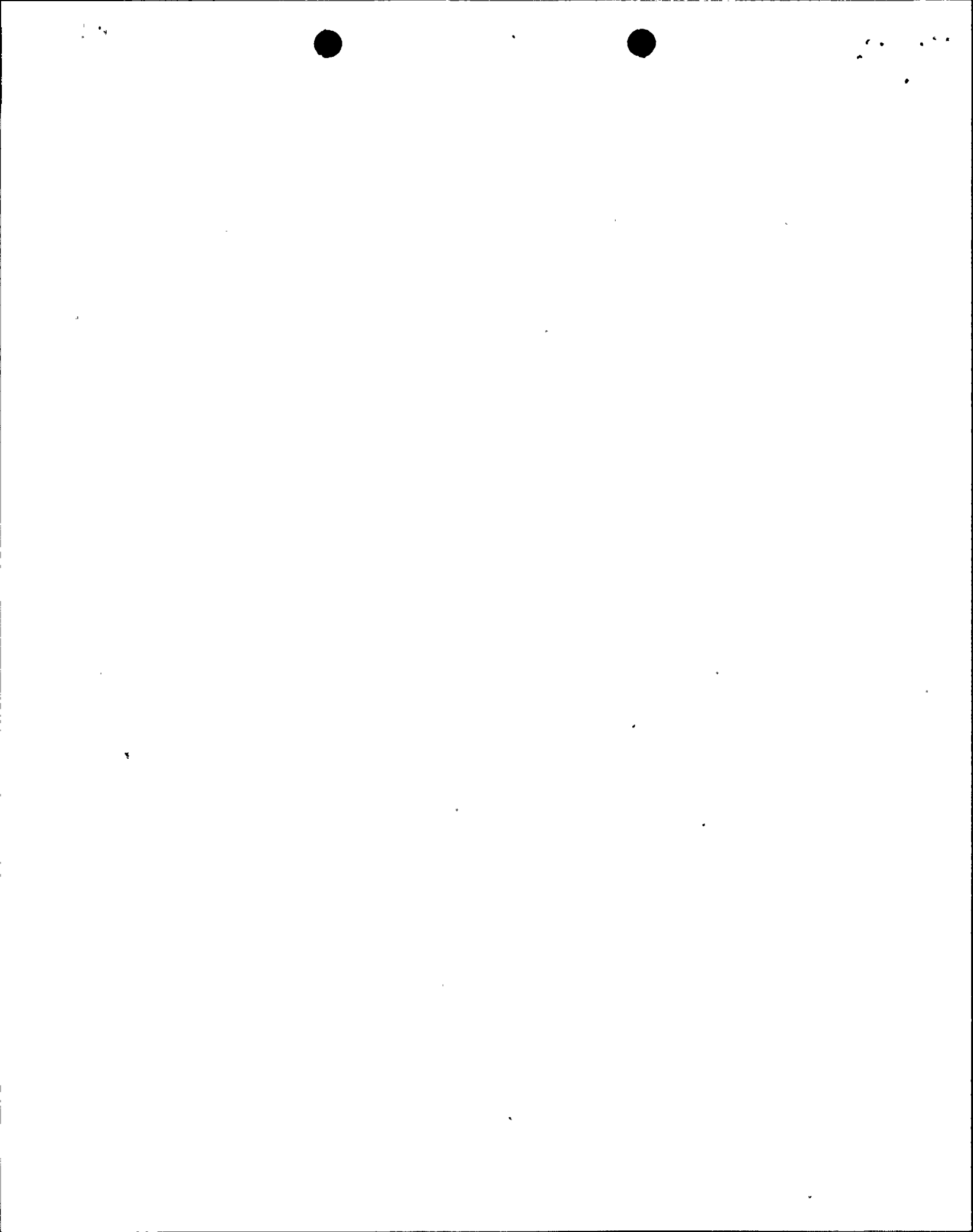
Sincerely,



Steven A. Varga, Director  
Division of Reactor Projects - I/II  
Office of Nuclear Reactor Regulation

Enclosures:

1. 10 CFR 9.15
2. 10 CFR 9.21



## PART 9 • PUBLIC RECORDS

NRC; members of boards designated by the Commission to preside at adjudicatory proceedings; and officers or employees of Government agencies, including military personnel, assigned to duty at the NRC.

"Working days" mean Monday through Friday, except legal holidays.

#### § 9.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized as binding upon the Commission.

#### § 9.8 Information collection requirements: OMB approval.

(a) The NRC has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). OMB has approved the information collection requirements contained in this part under control number 3150-0043.

(b) The approved information collection requirements contained in this part appear in §§ 9.29, 9.41, 9.54, 9.55, and 9.202.

#### Subpart A—Freedom of Information Act Regulations.

#### § 9.11 Scope of subpart.

This subpart prescribes procedures for making NRC agency records available to the public for inspection and copying pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) and provides notice of procedures for obtaining NRC records otherwise publicly available. This subpart does not affect the dissemination or distribution of NRC-originated, or NRC contractor-originated, information to the public under any other NRC public, technical, or other information program or policy.

#### § 9.13 Definitions.

As used in this subpart:

"Agency record" is a record in the possession and control of the NRC that is associated with Government business. Agency record does not include records such as—

(1) Publicly available books, periodicals, or other publications that are owned or copyrighted by non-Federal sources;

(2) Records solely in the possession and control of NRC contractors;

(3) Personal records in possession of NRC personnel that have not been circulated, were not required to be

created or retained by the NRC, and can be retained or discarded at the author's sole discretion, or records of a personal nature that are not associated with any Government business; or

(4) Non-substantive information in logs or schedule books of the Chairman or Commissioners, uncirculated except for typing or recording purposes.

"Commercial-use request" means a request made under § 9.23(b) for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

"Direct costs" mean the expenditures that an agency incurs in searching for and duplicating agency records. For a commercial-use request, direct costs include the expenditures involved in reviewing records to respond to the request. Direct costs include the salary of the employee category performing the work based on that basic rate of pay plus 16 percent of that rate to cover fringe benefits and the cost of operating duplicating machinery.

"Duplication" means the process of making a copy of a record necessary to respond to a request made under § 9.23. Copies may take the form of paper copy, microform, audio-visual materials, disk, magnetic tape, or machine readable documentation, among others.

"Educational institution" means an institution which operates a program or programs of scholarly research. Educational institution refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education.

"Noncommercial scientific institution" means an institution that is not operated on a commercial basis, as the term "commercial" is referred to in the definition of "commercial-use request," and is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

"Office", unless otherwise indicated, means all offices, boards, panels, and advisory committees of the NRC.

"Record" means any book, paper, map, photograph, brochure, punch card, magnetic tape, paper tape, sound recording, pamphlet, slide, motion picture, or other documentary material, regardless of form or characteristics. Record does not include an object or article such as a structure, furniture, a tangible exhibit or model, a vehicle, or piece of equipment.

"Representative of the news media" means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscriptions by the general public.

"Review" means the process of examining records identified as responsive to a commercial-use request to determine whether they are exempted from disclosure in whole or in part. Also, review includes examining records to determine which Freedom of Information Act exemptions are applicable, identifying records or portions thereof to be disclosed, and excising from the records those portions which are to be withheld.

"Search" means all time spent looking for records, either by manual search, or search using existing computer programs, that respond to a request including a page-by-page or line-by-line identification of responsive information within the records.

"Unusual circumstances" mean—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which will be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the NRC having substantial subject-matter interest therein.

#### § 9.15 Availability of records.

The NRC will make available for public inspection and copying any reasonably described agency record in the possession and control of the NRC under the provisions of this subpart, upon request by any person. Records that the NRC routinely makes publicly available are described in § 9.21. Procedures and conditions governing requests for records are set forth in § 9.23.



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## PART 9 • PUBLIC RECORDS

**§ 9.17. Agency records exempt from public disclosure.**

(a) The following types of agency records are exempt from public disclosure under § 9.15:

(1) Records (i) which are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and (ii) which are in fact properly classified pursuant to such Executive order;

(2) Records related solely to the internal personnel rules and practices of the agency;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would

disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) Nothing in this subpart authorizes withholding of information or limiting the availability of records to the public except as specifically provided in this part, nor is this subpart authority to withhold information from Congress.

(c) Whenever a request is made which involves access to agency records described in paragraph (a)(7) of this section, the NRC may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this subpart when—

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that—

(i) The subject of the investigation or proceeding is not aware of its pendency; and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

**§ 9.19 Segregation of exempt information and deletion of identifying details.**

(a) For records required to be made available under 5 U.S.C. 552(a)(2), the NRC shall delete the name with any identifying details, if the release of the name or other identifying details of, or relating to, a private party will constitute a clearly unwarranted invasion of personal privacy. The NRC shall provide notification that names of parties and certain other identifying details have been removed in order to prevent a clearly unwarranted invasion of the personal privacy of the individuals involved.

(b) In responding to a request for information submitted under § 9.23 in which it has been determined to withhold exempt information, the NRC shall segregate—

(1) Information that is exempt from public disclosure under § 9.17(a) from nonexempt information; and

(2) Factual information from advice, opinions, and recommendations in predecisional records unless the

information is inextricably intertwined, or is contained in drafts, legal work products, and records covered by the lawyer-client privilege, or is otherwise exempt from disclosure.

**§ 9.21 Publicly available records.**

(a) Publicly available records of NRC activities described in paragraphs (c) and (d) of this section are available through the National Technical Information Service. Subscriptions to these records are available on 48x microfiche and may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Single copies of NRC publications in the NUREG series, NRC Regulatory Guides, and Standard Review Plans are also available from the National Technical Information Service.

(b) For the convenience of persons who may wish to inspect without charge or purchase copies of a record or a limited category of records for a fee, publicly available records of the NRC's activities described in paragraph (c) of this section are also made available at the NRC Public Document Room. The NRC Public Document Room is located at 2120 L Street NW., Washington, DC, and is open between 7:45 a.m. and 4:15 p.m. on Monday through Friday, except legal holidays.

(c) The following records of NRC activities are publicly available at the NRC Public Document Room for public inspection and copying:

(1) Final opinions including concurring and dissenting opinions as well as orders of the NRC issued as a result of adjudication of cases;

(2) Statements of policy and interpretations which have been adopted by the NRC and have not been published in the Federal Register;

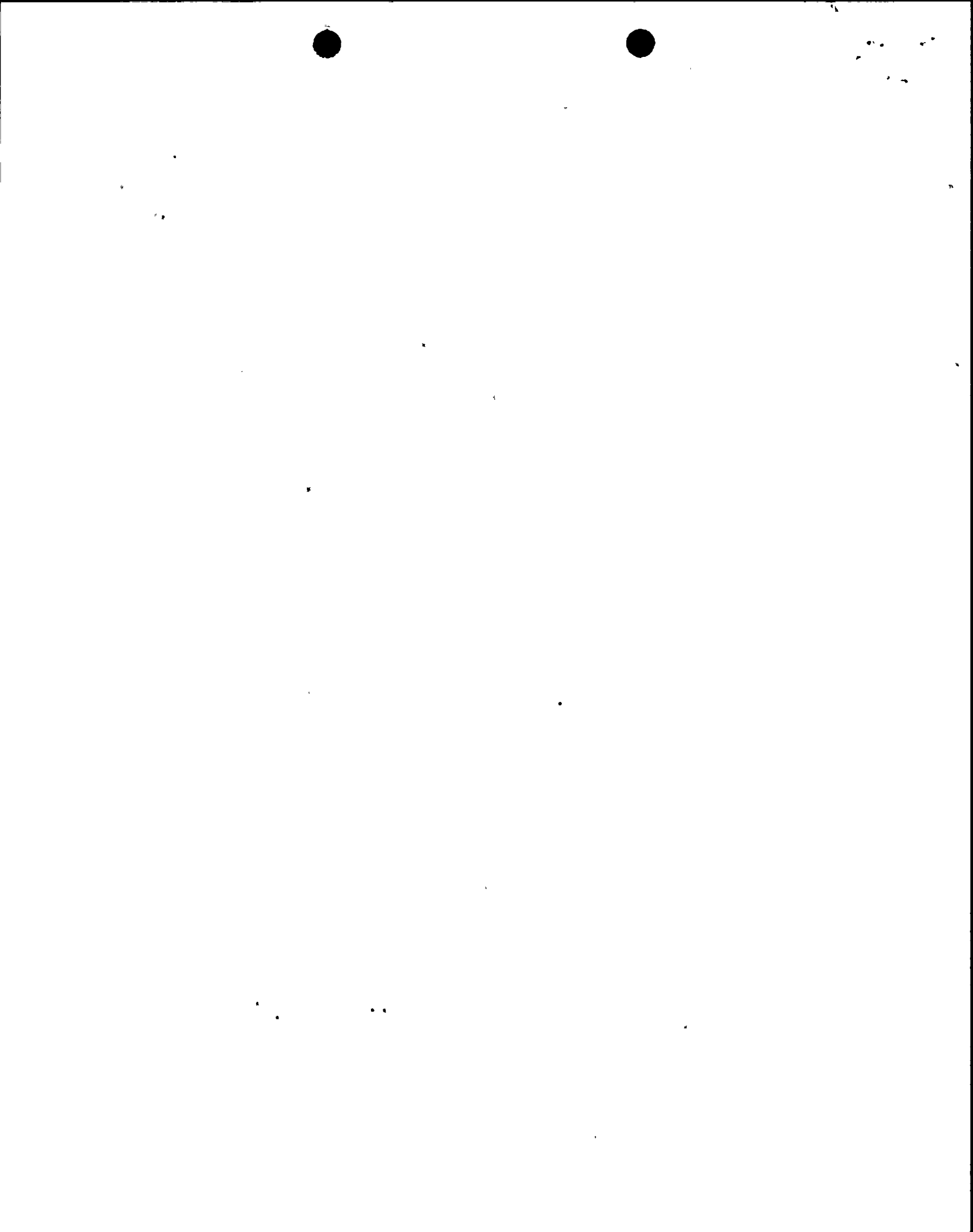
(3) Nuclear Regulatory Commission rules and regulations;

(4) Nuclear Regulatory Commission Manual and instructions to NRC personnel that affect any member of the public;

(5) Records made available for public inspection and copying under this chapter and the NRC Manual (NRC Bulletin 3203-15 describes the "NRC Policy for Routinely Making NRC Records Publicly Available");

(6) Current indexes to records made available under 5 U.S.C. 552(a)(2) and that are made publicly available are listed in NUREG-0550, "Title of List of Documents Made Publicly Available," which is published monthly.

(d) Records made publicly available under paragraphs (c)(1), (2), and (5) of this section are also available for purchase through the National Technical Information Service.





of many of them and as confirmed in the staff's February 1-5, 1993, onsite inspection, the containment isolation valves were being properly tested in accordance with all applicable regulatory requirements including the then applicable NMP-1 procedures which we determined were adequate. Other deficiencies identified during the staff's February 1-5, 1993, onsite inspection were also corrected in License Amendment No. 140 and in UFSAR Revision 11. Since you identified your list of errors to the licensee prior to bringing them to the attention of the NRC, it is possible that the licensee corrected many of the other errors you identified prior to the NRC's onsite inspection.

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I trust this responds to your concerns.

Sincerely,  
 Original signed by:  
 Steven A. Varga, Director  
 Division of Reactor Projects - I/II  
 Office of Nuclear Reactor

Regulation Enclosures:

- 1. 10 CFR 9.15
- 2. 10 CFR 9.21

Distribution:

Docket File (50-220) (w/incoming)	DBrinkman
NRC & Local PDRs (w/incoming)	CVogan
PDI-1 Reading	RACapra
WRussell/FMiraglia, 12/G/18	CCowgill, RGN-I
LReyes, Acting, 12/G/18	OGC
SVarga	
JCalvo	
WLanning, RGN-I	
LNorton, 5D28 TWFN (w/incoming)	

\*See previous concurrence

PDI-1:LA	PDI-1:PM	*OGC	PDI-1:D	AD:RI	DRPE:D
CVogan <i>CV</i>	DBrinkman:av1 <i>ADB</i>	RWeisman	RACapra <i>RC</i>	JCalvo	SVarga <i>SV</i>
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