

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

(Shoreham Nuclear Power Station,  
Unit 1)

Docket No. 50-322

NRC STAFF'S POSITION REGARDING  
CONSIDERATION OF "CLASS 9" ACCIDENTS

## INTRODUCTION

Subpart (d) of Intervenor Suffolk Opponents Coalition (SOC) Contention 20 filed in this operating license proceeding asserts that the Shoreham FES is inadequate because of a "[f]ailure to assess the consequences of a Class 9 accident" (SOC Petition to Intervene dated January 24, 1980). This contention was dismissed by the Board "without prejudice to renewal of an adequately particularized contention regarding 'Class 9' accidents, in the event Staff elects to advise the Commission that 'Class 9' accidents should be considered in this proceeding." ("Order Ruling on Petition of [SOC]," March 5, 1980, at page 23). This pleading responds to the Board's request that the Staff inform it and the parties regarding Staff's position on the consideration of "Class 9" accidents in this proceeding. Id.

DISCUSSION

As the Board and parties know, on June 13, 1980, the Commission caused to be published in the Federal Register a Statement of Interim Policy on Nuclear Power Plant Accident Considerations under the National Environmental Policy Act of 1969. 45 Fed. Reg. 40101. The Commission, in its "Class 9" Policy Statement, withdrew the proposed Annex to Appendix D to 10 C.F.R. Part 50, suspended the rulemaking proceeding that began with the publication of the proposed Annex on December 1, 1971, and directed that the Staff

\* \* \* initiate treatments of accident considerations in accordance with [guidance in the Policy Statement] in its on-going NEPA reviews, i.e., for any proceeding at a licensing stage where a Final Environmental Impact Statement has not yet been issued. (Emphasis Added) (45 Fed. Reg. 40101, at 40103).

The Commission also went on to state that

\* \* \* this change in policy is not to be construed as any lack of confidence in conclusions regarding the environmental risks of accidents expressed in any previously issued Statements, nor, absent a showing of similar special circumstances, as a basis for opening, reopening, or expanding any previous or ongoing proceeding. 5/

5/ Commissioners Gilinsky and Bradford disagree with the inclusion of the preceding two sentences. They feel that they are absolutely inconsistent with an even-handed reappraisal of the former, erroneous position on Class 9 accidents.

The FES considering the Shoreham Operating License was issued in October 1977. Thus, Shoreham is not in the class of cases which are required to consider "Class 9" accidents. The Staff is of the view that the above-noted provisions of the Commission's "Class 9" Policy Statement are dispositive of the question whether "Class 9" accidents need be considered in this proceeding. Accordingly, in the absence of a petition showing that special circumstances exist granted by the Board, pursuant to 10 C.F.R. §2.758(b), "Class 9" accidents should not be considered in this proceeding.

CONCLUSION

In view of the Commission's issuance of an Interim Policy on "Class 9" accidents, and in the absence of a grant by the Board of a petition, filed pursuant to 10 C.F.R. §2.758(b), showing special circumstances, the Staff does not intend to consider "Class 9" accidents in this proceeding.

Respectfully submitted,

*Bernard M. Bordenick*

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Counsel for NRC Staff

Dated at Bethesda, Maryland,  
this 24th day of December, 1980.

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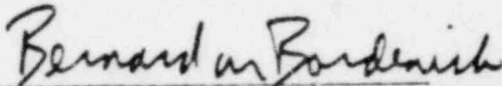
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