

## NUCLEAR REGULATORY COMMISSION

## CONSIDERATION OF PSYCHOLOGICAL STRESS ISSUES

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Statement of Policy

SUMMARY: On May 4, 1982, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in People Against Nuclear Energy (PANE) v. NRC, No. 81-1131. By a divided vote, the court ruled that the National Environmental Policy Act requires the Commission to evaluate the effects on psychological health of operating the Three Mile Island Unit 1 facility. The Commission is directed to determine whether "significant new circumstances or information have arisen with respect to the potential psychological health effects of operating the TMI-1 facility," and if it answers that question affirmatively, to prepare a "supplemental environmental impact statement which considers not only effects on psychological health but also effects on the well-being of the communities surrounding Three Mile Island."

The time within which the Commission may seek further review of the court's decision by a petition to the Supreme Court for a writ of certiorari has not yet expired. Irrespective of its plans with respect to further judicial review of the decision, however, it is necessary for the Commission to provide guidance

on the applicability of the decision to NEPA issues raised in proceedings other than the Three Mile Island Unit 1 restart proceeding, since the court did not provide explicit instructions to the Commission on that issue. (Indeed, the court stated expressly that it saw no need to attempt in its decision to "draw a bright line" between cognizable and non-cognizable psychological stress effects under NEPA.) The purpose of this Policy Statement is to furnish that guidance for NRC staff's own NEPA analyses, for proceedings in which NEPA psychological stress contentions have been or may be raised and for any petitions which may be submitted under 10 CFR 2.206 requesting relief on the basis of NEPA psychological stress issues.

The court's opinion states that the "issue of first impression" which it addresses is "the cognizability of post-traumatic psychological health effects under NEPA." Slip op. p. 13. Elsewhere, the court states its holding that while NEPA "does not encompass mere dissatisfactions arising from social opinions, economic concerns, or political disagreements with agency policies," the statute "does apply to post-traumatic anxieties, accompanied by physical effects and caused by fears of recurring catastrophe." Slip op. pp. 16-17. The court underlines this point with a reference to the "unique and traumatic nuclear accident" which gave rise to the fears alleged by PANE. Slip op. p. 16. The court also stated:

We need not attempt to draw a bright line in this case. Three Mile Island is, at least so far, the only event of its kind in the American experience. We cannot believe that the psychological aftermath of the March 1979 accident falls outside the broad scope of the National Environmental Policy Act. Slip op., p. 17.

The majority opinion thus stands for the proposition that an evaluation of environmental impacts under NEPA includes evaluation of "post-traumatic anxieties, accompanied by physical effects and caused by fears of recurring catastrophe." As the Commission reads the opinion, the cognizability of psychological stress impacts under NEPA thus hinges on three elements. First, the impacts must consist of "post-traumatic anxieties", as distinguished from mere dissatisfaction with agency proposals or policies. Second, the impacts must be accompanied by physical effects. Third, the "post-traumatic anxieties" must have been caused by "fears of recurring catastrophe". This third element means that some kind of nuclear accident must already have occurred at the site in question, since the majority's holding was directed to "post-traumatic" anxieties and by fears of a "recurring" catastrophe. Moreover, the majority clearly had only serious accidents in mind, because of the use of the word "catastrophe" and its references to the "unique" Three Mile Island Unit 2 accident in the opinion. In the Commission's view, the only nuclear plant accident that has occurred to date that is sufficiently serious to trigger consideration of psychological

stress under NEPA is the Three Mile Island Unit 2 accident. Accordingly, only this accident can currently serve as a basis for raising NEPA psychological stress issues.

It is therefore the Commission's policy that adjudicatory boards, in ruling on NEPA contentions alleging psychological stress resulting from Commission-licensed activities, should assure that all of the elements described above are present. Psychological stress contentions which do not satisfy these criteria should be held inadmissible. For contentions which allege the elements described above, usual standards will apply for weighing the sufficiency of the initial filing. The NRC staff should apply the same tests in conducting its own NEPA analyses and in weighing requests for relief, filed under 10 CFR 2.206, which allege psychological harm resulting from ongoing Commission-licensed activities. The Commission believes that by adopting this approach, it can fully comply with the court's specific holding that the "psychological aftermath" of "unique and traumatic nuclear accidents" be cognizable in NRC proceedings, without at the same time so broadening the court's holding as to make the litigation of psychological stress contentions available virtually on demand in any licensing proceeding.

By adopting a literal reading of the court's decision, as far as other proceedings are concerned, the Commission believes it is serving the public interest. In the conduct of licensing reviews and proceedings involving numerous complex technical issues, the Commission's resources should be devoted primarily to

addressing the safety issues which are or might be the causes of psychological stress on the part of some members of the public, rather than to addressing the nature and extent of the stress itself.

Dated at Washington, D.C. this 16<sup>th</sup> day of July, 1982.

For the Commission

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SAMUEL J. CHILK  
Secretary of the Commission