

NUREG-0750
Vol. 42
Index 1

INDEXES TO NUCLEAR REGULATORY COMMISSION ISSUANCES

July - September 1995



U.S. NUCLEAR REGULATORY COMMISSION

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Prepared by the
Division of Freedom of Information and Publications Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
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Foreword

Digests and indexes for issuances of the Commission (CLI), the Atomic Safety and Licensing Board Panel (LBP), the Administrative Law Judges (ALJ), the Directors' Decisions (DD), and the Denials of Petitions for Rulemaking (DPRM) are presented in this document. These digests and indexes are intended to serve as a guide to the issuances.

Information elements common to the cases heard and ruled upon are:

- Case name (owner(s) of facility)
- Full text reference (volume and pagination)
- Issuance number
- Issues raised by appellants
- Legal citations (cases, regulations, and statutes)
- Name of facility, Docket number
- Subject matter of issues and/or rulings
- Type of hearing (for construction permit, operating license, etc.)
- Type of issuance (memorandum, order, decision, etc.).

These information elements are displayed in one or more of five separate formats arranged as follows:

1. Case Name Index

The case name index is an alphabetical arrangement of the case names of the issuances. Each case name is followed by the type of hearing, the type of issuance, docket number, issuance number, and full text reference.

2. Digests and Headers

The headers and digests are presented in issuance number order as follows: the Commission (CLI), the Atomic Safety and Licensing Board Panel (LBP), the Administrative Law Judge (ALJ), the Directors' Decisions (DD), and the Denials of Petitions for Rulemaking (DPRM).

The header identifies the issuance by issuance number, case name, facility name, docket number, type of hearing, date of issuance, and type of issuance.

The digest is a brief narrative of an issue followed by the resolution of the issue and any legal references used in resolving the issue. If a given issuance covers more than one issue, then separate digests are used for each issue and are designated alphabetically.

3. Legal Citations Index

This index is divided into four parts and consists of alphabetical or alpha-numerical arrangements of Cases, Regulations, Statutes, and Others. These citations are listed as given in the issuances. Changes in regulations and statutes may have occurred to cause changes in the number or name and/or applicability of the citation. It is therefore important to consider the date of the issuance.

The references to cases, regulations, statutes, and others are generally followed by phrases that show the application of the citation in the particular issuance. These phrases are followed by the issuance number and the full text reference.

4. Subject Index

Subject words and/or phrases, arranged alphabetically, indicate the issues and subjects covered in the issuances. The subject headings are followed by phrases that give specific information about the subject, as discussed in the issuances being indexed. These phrases are followed by the issuance number and the full text reference.

5. Facility Index

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CLI-95-10 GEORGIA INSTITUTE OF TECHNOLOGY (Georgia Tech Research Reactor, Atlanta, Georgia), Docket No. 50-160-Ren (Renewal of License No. R-97); OPERATING LICENSE RENEWAL; July 26, 1995; MEMORANDUM AND ORDER

A In this proceeding involving a license renewal application filed by the Georgia Institute of Technology (Georgia Tech), the Commission currently is considering appeals from Atomic Safety and Licensing Board order LBP-95-6, 41 NRC 281 (1995), which granted the Georgians Against Nuclear Energy's (GANE) petition for leave to intervene and admitted two contentions, one challenging the physical security at the Georgia Tech Research Reactor (GTRR), and the other alleging problems in the GTRR's management. Georgia Tech and the Nuclear Regulatory Commission Staff requested the Commission to stay discovery pending resolution of the appeals.

B In light of new facts received, the Commission lifts its earlier imposed temporary stay of discovery, vacates the Licensing Board decision on the security contention, and remands the security contention to the Board for reconsideration.

CLI-95-11 CURATORS OF THE UNIVERSITY OF MISSOURI Docket Nos. 70-00270, 30-02278-MLA (Byproduct License No. 24-00513-32; Special Nuclear Materials License No. SNM-247) (TRUMP-S Project); MATERIALS LICENSE AMENDMENT; August 22, 1995; MEMORANDUM AND ORDER (Petition for Partial Reconsideration)

A The Commission denies the University of Missouri's petition for reconsideration seeking a clarification that the "Site Area Emergency" classification for its MURR facility comes into play only when a fire or accident involving nuclear materials could lead to radiation exposures possibly approaching 1-rem whole-body dose at the site boundary. The Commission rules that a reference to the site boundary is already implicit in the existing "Site Area Emergency" condition. In addition, the Commission sua sponte requires the University either (i) to require evacuation of all persons (except emergency personnel) to a point at least 150 meters from the Alpha Lab whenever an Alert is declared as a result of a fire involving TRUMP-S materials or (ii) to provide the NRC Staff sufficient information to determine that the existing Emergency Plan and procedures (or any proposed modifications of the Plan and procedures) adequately protect the public within the site boundary in the case of a fire involving TRUMP-S materials.

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LBP-95-14 GEORGIA INSTITUTE OF TECHNOLOGY (Georgia Tech Research Reactor, Atlanta, Georgia), Docket No. 50-160-OM (ASLBP No. 95-710-01-OM) (Order Modifying Facility Operating License No. R-97); OPERATING LICENSE MODIFICATION; July 31, 1995; MEMORANDUM AND ORDER (Intervention Petition)

A In a proceeding involving the proposed conversion of fuel in a research reactor from high-enriched fuel (HEU) to low-enriched fuel (LEU), the Licensing Board accepts the standing of the Petitioner for intervention based on standing established by that Intervenor in an ongoing license-renewal proceeding (subject to confirmation that the member upon whom the Intervenor relied in the renewal proceeding also seeks representation in the instant proceeding). The Board sets schedules for the filing of proposed contentions and responses thereto.

B Under certain circumstances, even if a current proceeding is separate from an earlier proceeding, the Commission may refuse to apply its rules of procedure in an overly formalistic manner by requiring that petitioners participating in the earlier proceeding must again identify their interests to participate in the current proceeding. Georgia Power Co. (Vogtle Electric Generating Plant, Units 1 and 2), LBP-91-33, 34 NRC 138 (1991).

LBP-95-15 GEORGIA POWER COMPANY, et al. (Vogtle Electric Generating Plant, Units 1 and 2), Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLBP No. 93-671-01-OLA-3) (Re: License Amendment; Transfer to Southern Nuclear); OPERATING LICENSE AMENDMENT; August 3, 1995; MEMORANDUM AND ORDER (Request for Discovery Concerning Ester Dixon)

A The Atomic Safety and Licensing Board held that a secretary's communications, recorded in a note by her employer's attorney, are unlikely to be discoverable because they are privileged communications of a client to an attorney. However, the Board ordered the in camera inspection of the notes before reaching a final determination concerning the specific factual circumstances present in this case and the applicability of the purposes of the attorney-client privilege.

B When the client is a corporation, the attorney-client privilege applies to communications by any corporate employee regardless of position when the communications concern matters within the scope of the employee's corporate duties and the employee is aware that the information is being furnished to enable the attorney to provide legal advice to the corporation. *Upjohn Co. v. United States*, 449 U.S. 383, 396-97, 101 S. Ct. 677, 685-86 (1981).

C When a claim of attorney-client privilege is made for a document containing a simple report of facts, the Atomic Safety and Licensing Board may examine the document further in order to ascertain whether granting privilege to the document is consistent with the purposes of the attorney-client privilege.

LBP-95-16 HARTSELL D. PHILLIPS, JR. (West Virginia), Docket No. IA 94-001 (ASLBP No. 94-694-05-EA) (Re: Allegation of Deliberate Violations); ENFORCEMENT ACTION; September 19, 1995; MEMORANDUM AND ORDER (Dismissal Pursuant to Agreement)

A The Board dismissed this case by adopting a settlement agreement reached by Mr. Phillips and the Staff of the Nuclear Regulatory Commission. The Settlement occurred after Mr. Phillips pled guilty to a one-count Summary Offense, pleading Information stating a violation of law. The terms of the agreement, which the Board adopted, provided for Mr. Phillips to be suspended from participation in the nuclear industry for a period of time.

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DD-95-13 ROSEMOUNT NUCLEAR INSTRUMENTS, INCORPORATED (Eden Prairie, Minnesota), Docket No. 99900271; REQUEST FOR ACTION; July 5, 1995; DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Director of the Office of Nuclear Reactor Regulation denies a petition by Paul M. Blanch that requested certain action with regard to Rosemount Nuclear Instruments, Incorporated (Rosemount). The petition requested that: (1) Rosemount immediately inform all users of safety-related transmitters in accordance with the requirements of 10 C.F.R. Part 21 of the shelf-life limitations of its pressure transmitter sensor-cell fill-oil and that the fill-oil may crystallize if the transmitters are exposed to temperatures of less than 70°F, and provide all available information to each licensee for evaluation; (2) the NRC take "prompt and vigorous" enforcement action against Rosemount for knowingly and consciously failing to provide notification as required by 10 C.F.R. Part 21 of these issues and that a separate violation be issued for each defect and failure to provide the required notice; and (3) the NRC consider escalated enforcement action due to the repetitive nature of the alleged violations.

DD-95-14 SOUTHERN CALIFORNIA EDISON COMPANY, et al. (San Onofre Nuclear Generating Station, Units 2 and 3), Docket Nos. 50-361, 50-362; REQUEST FOR ACTION; July 24, 1995; DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Director, Office of Nuclear Reactor Regulation, denies a petition filed on September 19, 1994, and supplemented by letters dated December 2 and December 7, 1994, by Mr. Richard M. Dean requesting a shutdown of the San Onofre Nuclear Generating Station (SONGS). The request was based on concerns regarding the closure of the Pacific Coast Highway and the recent financial losses incurred by Orange County as related to the County's ability to effectively participate in emergency evacuation plans in the event of an emergency at SONGS.

DD-95-15 GEORGIA INSTITUTE OF TECHNOLOGY (Georgia Tech Research Reactor, Atlanta, Georgia), Docket No. 50-160; REQUEST FOR ACTION; July 31, 1995; PARTIAL DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Acting Director, Office of Nuclear Reactor Regulation, partially denies a petition dated October 23, 1994, filed by Ms. Pamela Blockey-O'Brien (Petitioner). This Partial Director's Decision also considered subsequent letters from the Petitioner dated November 12 and December 4, 1994, February 21, February 23, March 6, March 28, April 19, May 18, June 27, and July 18, 1995. The Petitioner requested (1) the shutdown and decontamination of the Georgia Tech Research Reactor (2) the revocation of liquid radioactive material release authority to all licensees, (3) the revocation of licenses that use the principle of as low as reasonably achievable, (4) the termination of transportation of radioactive material by mail, and (5) the modification to posting requirements for radioactive material. After a review of the Petitioner's concerns, the Acting Director concluded that the Petitioner's concerns, addressed to date, do not raise substantial health and safety concerns warranting the requested actions. The reasons for the partial denial are fully set forth in the Partial Director's Decision.

DD-95-16 NORTHEAST NUCLEAR ENERGY COMPANY (Millstone Nuclear Power Station, Unit 1), Docket No. 50-245; REQUEST FOR ACTION; August 2, 1995; DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Director of the Office of Enforcement has denied a petition filed by Clarence O. Reynolds requesting that the NRC take immediate escalated enforcement action with regard to Millstone Nuclear Power Station Unit 1 on the basis of alleged discriminatory actions taken against him. Specifically, Mr.

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Reynolds requested that multiple Severity Level II and III violations be issued against the Millstone Unit 1 Maintenance Department, that suspension of Maintenance Department management be instituted pending a complete investigation, and that he be immediately reinstated as maintenance mechanic pending completion of the investigation. The reasons for the denial are fully set forth in the Decision.

DD-95-17 NORTHEAST NUCLEAR ENERGY COMPANY (Millstone Nuclear Power Station, Units 1 and 2), Docket Nos. 50-245, 50-336; REQUEST FOR ACTION, August 2, 1995; DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Director of the Office of Enforcement has denied petitions filed by Anthony J. Ross requesting that the NRC take escalated enforcement action with regard to violations at Millstone Nuclear Power Station arising from alleged discriminatory acts committed by his supervisors. Mr. Ross asks that the NRC issue Severity Level II and III violations and other sanctions against the supervisors who committed the alleged acts of discrimination, and that Severity Level I violations be issued against senior managers for failing to rectify the problem. The reasons for the denial are fully set forth in the Decision.

DD-95-18 GENERAL PUBLIC UTILITIES NUCLEAR CORPORATION (Oyster Creek Nuclear Generating Station), Docket No. 50-219; REQUEST FOR ACTION, August 4, 1995; PARTIAL DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Director of the Office of Nuclear Reactor Regulation denies in part a petition dated September 19, 1994, filed with the Nuclear Regulatory Commission (NRC) by Reactor Watchdog Project, Nuclear Information and Resource Service (NIRS), and Oyster Creek Nuclear Watch (Petitioners), requesting that the NRC take action with respect to the General Public Utilities Nuclear Corporation (GPUN or Licensee) Oyster Creek Nuclear Generating Station (OCNGS). The petition requests that the NRC: (1) immediately suspend the OCNGS operating license until the Licensee inspects and repairs or replaces all safety-class reactor internal component parts subject to embrittlement and cracking, (2) immediately suspend the OCNGS operating license until the Licensee submits an analysis regarding the synergistic effects of through-wall cracking of multiple safety-class components, (3) immediately suspend the OCNGS operating license until the Licensee has analyzed and mitigated any areas of noncompliance with regard to irradiated fuel pool cooling as a single-unit boiling-water reactor (BWR), and (4) issue a generic letter requiring other licensees of single-unit BWRs to submit information regarding fuel pool boiling in order to verify compliance with regulatory requirements, and to promptly take appropriate mitigative action if the unit is not in compliance.

B The December 13, 1994 Supplemental Petition requests that the NRC: (1) suspend the license of the OCNGS until the Petitioners' concerns regarding cracking are addressed, including inspection of all reactor vessel internal components and other safety-related systems susceptible to intergranular stress corrosion cracking (IGSCC) and completion of any and all necessary repairs and modifications; (2) explain discrepancies between the response of the NRC Staff, dated October 27, 1994, to the Petition of September 19, 1994, and the time-to-boil calculations for the FitzPatrick plant; (3) require GPUN to produce documents for evaluation of the time-to-boil calculation for the OCNGS irradiated fuel pool; (4) identify redundant components that may be powered from onsite power supplies to be used for spent fuel pool cooling as qualified Class 1E systems; (5) hold a public meeting in Toms River, New Jersey, to permit presentation of additional information related to the petition, and (6) treat the Petitioner's letter of December 13, 1994, as a formal appeal of the denial of Petitioners' request of September 19, 1994, to immediately suspend the OCNGS operating license.

C After review of the issues related to cracking of reactor internal components raised by Requests (1) and (2) of the September 19, 1994 Petition, and Request (1) of the December 13, 1994 Supplemental Petition, the petition is denied with respect to these requests because the issues raised by the Petitioners are being adequately addressed already. A Director's Decision concerning the issues related to irradiated fuel pool cooling and fuel pool boiling, raised by Requests (3) and (4) of the September 19, 1994 Petition and Requests (2), (3), and (4) of the December 13, 1994 supplemental Petition will be issued upon completion of NRC Staff's review regarding those matters. Petitioner's request for a public meeting and for treatment of their letter of December 13, 1994, as a formal appeal of the NRC Staff's denial of their request of September 19, 1994, for immediate suspension of the OCNGS operating license, was denied by letter dated April 10, 1995.

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DD-95-19 BOSTON EDISON COMPANY (Pilgrim Nuclear Power Station). Docket No. 50-293 (License No. DRP-35); REQUEST FOR ACTION: August 31, 1995; DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Director of the Office of Nuclear Reactor Regulation grants in part and denies in part a petition dated March 10, 1995, submitted by Mary Elizabeth Lampert and sixty-two other individuals pursuant to 10 C.F.R. § 2.206, and which requests action with regard to the Pilgrim Nuclear Power Station (Pilgrim), operated by the Boston Edison Company (Licensee).

B Petitioners' request that the NRC not permit restart of Pilgrim until repairs are performed and corrective action is taken with respect to a number of certain reactor internals, parts, and components was denied because all potential problems identified by Petitioners had been satisfactorily addressed by the Licensee. Petitioners' request to terminate the NRC policy of issuing notices of enforcement discretion to reactor licensees was denied. Petitioners' request for a public meeting in Plymouth, Massachusetts, was granted.

DD-95-20 TENNESSEE VALLEY AUTHORITY (Watts Bar Nuclear Plant). Docket Nos. 50-390, 50-391; REQUEST FOR ACTION: September 13, 1995; DIRECTOR'S DECISION UNDER 10 C.F.R. 2.206

A The Director of the Office of Enforcement denies a petition dated February 25, 1994, filed with the Nuclear Regulatory Commission (NRC or Commission) by George M. Gillilan (Petitioner), and supplemented by letters dated June 16, June 28, July 6, 1994, and February 24 and 28, 1995, requesting enforcement action pursuant to 10 C.F.R. § 2.206 (petition). The petition requested that the NRC: (1) immediately impose a \$25,000 per day fine on Tennessee Valley Authority (TVA) until all reprisal, intimidation, harassment, and discrimination actions involving the Petitioner are settled to his satisfaction, and (2) appoint an independent arbitration board to review all past DOL suits and EEO complaints filed against TVA concerning Watts Bar.

B After an evaluation of the petition, the Director concluded that the Petitioner's claims are unsubstantiated and that enforcement action is not necessary at this time.

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