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Vol. 34
Index 1

INDEXES TO NUCLEAR REGULATORY COMMISSION ISSUANCES

July - September 1991



U.S. NUCLEAR REGULATORY COMMISSION

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INDEXES TO NUCLEAR REGULATORY COMMISSION ISSUANCES

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U.S. NUCLEAR REGULATORY COMMISSION

Prepared by the
Division of Freedom of Information and Publications Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555
(301/492-8925)

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 alphanumerical 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

The index consists of an alphabetical arrangement of facility names from the issuance. The name is followed by docket number, type of hearing, date, type of issuance, issuance number, and full text reference.

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REQUEST FOR ACTION; MEMORANDUM AND ORDER; Docket No. 50-029 (10 C.F.R. §2.206);
CLI-91-11, 34 NRC 3 (1991)

DIGESTS
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- CLJ-91-10 LONG ISLAND LIGHTING COMPANY (Shoreham Nuclear Power Station, Unit 1), Docket No. 50-322; OPERATING LICENSE AMENDMENT; July 25, 1991; ORDER
- A The Commission considers two emergency motions to stay the effectiveness of the Shoreham "possession-only" license (POL). Petitioners ask the Commission to order the Licensee to maintain the status quo at Shoreham: (1) to preserve U.S. Supreme Court Justice Stevens' jurisdiction to hear their appeal; and (2) to ensure that the Licensee does not take actions that it could take under the POL that would render full-power operation at Shoreham moot, pending the outcome of the D.C. Circuit's decision on the POL, which, if vacated, would revert back to a full-power license. The Commission denies both motions.
- CLJ-91-11 YANKEE ATOMIC ELECTRIC COMPANY (Yankee Rowe Nuclear Power Station), Docket No. 50-029 (10 C.F.R. § 2.206), REQUEST FOR ACTION; July 31, 1991; MEMORANDUM AND ORDER
- A The Commission denies a Petition for Emergency Enforcement Action and Request for Public Hearing. It orders reports, plans, and tests to be shared openly among all the participants to resolve remaining uncertainties.
- B The Commission always retains the power to take jurisdiction to consider and make the final decision on the issues raised in any petition. This power is exercised sparingly; however, a petition may present an enforcement question of sufficient public importance that the Commission concludes that it should make the decision.
- C The Commission's rules on ex parte communications do not formally attach until a notice of hearing or other compatible order is issued.
- D The mere filing of a petition requesting the Commission to issue an order does not invoke the ex parte rule; moreover, 10 C.F.R. § 2.205(c) specifically provides that the Commission retains the power to consult with the Staff on a formal or informal basis regarding the institution of proceedings.
- E The final objective of a plant-specific PTS study is to justify continued operation of the facility by demonstrating that the likelihood of a through-wall crack during continued operation is acceptably low.
- F Commission involvement in this matter is appropriate because the unique circumstances of the Yankee Rowe case have presented a situation that was not directly contemplated when the PTS rule and the steps to be followed when concerns arose were developed.
- G The overall goal of the Commission at the time it adopted 10 C.F.R. § 50.61 was to limit the probability of core damage due to a PTS initiating event to one-tenth of the overall risk of core damage frequency, or approximately 1 in 100,000 per reactor year.
- H The Commission affirms that the probability of PTS failure should be kept below the order of 1 in 100,000 per year, using best estimates of risk parameters.
- I PTS probability is not the only criterion for determining the significance of PTS concerns. A balance between prevention (i.e., reducing the probability of a PTS event) and mitigation (reducing the conditional probability of a failure, given the occurrence of a PTS event) is also important.
- J The following technical issues are discussed: 10 C.F.R. Part 50, Appendix G; 10 C.F.R. Part 50, Appendix H; Pressure vessel integrity; Pressurized thermal shock events; Safety standards; Unresolved safety questions.
- CLJ-91-12 ARIZONA PUBLIC SERVICE COMPANY, et al. (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), Docket Nos. 50-528-OLA-2, 50-529-OLA-2, 50-530-OLA-2; OPERATING LICENSE AMENDMENT; August 16, 1991; MEMORANDUM AND ORDER

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- A The Commission considers Licensees' appeal of a Licensing Board decision granting Petitioners' request for a hearing on one contention concerning pressurizer safety valves. The Commission declines to accept one of the two bases on which the Board relied in admitting the contention, but finds that the contention was properly admitted for litigation. The Commission therefore denies the appeal.
- B While the Licensing Board may appropriately view a petitioner's support for its contention in a light that is favorable to the petitioner, it cannot do so by ignoring the requirements set forth in 10 C.F.R. § 2.714(b)(2)(i), (ii), and (iii).
- C The Commission's regulations demand that all petitioners provide an explanation of the bases for the contention, a statement of fact or expert opinion upon which they intend to rely, and sufficient information to show a dispute with the applicant on a material issue of law or fact. 10 C.F.R. § 2.714(b)(2)(i), (ii), and (iii).
- D If any one of the requirements in 10 C.F.R. § 2.714(b)(2)(i), (ii), or (iii) is not met, a contention must be rejected.
- E The requirements in 10 C.F.R. § 2.714(b)(2)(i), (ii), and (iii) are designed to raise the Commission's threshold for admissible contentions and to require a clear statement as to the basis for the contentions and the submission of more supporting information and references to specific documents and sources that establish the validity for the contentions.
- F While petitioners cannot attack the methodology of the ASME Code requirements incorporated in the Commission's regulations at 10 C.F.R. § 50.55a, they can attack new proposed performance requirements. The two are not the same.
- G The question of whether a licensee's written commitment to resolve a concern that is a basis for an otherwise satisfactorily pleaded contention is a matter that ought properly to be addressed after admission of the contention. That commitment cannot be used to negate a petitioner's rationale for a contention.
- CLI-91-13 FLORIDA POWER AND LIGHT COMPANY (Turkey Point Nuclear Generating Plant, Units 3 and 4), Docket Nos. 50-250-OLA-5, 50-251-OLA-5; OPERATING LICENSE AMENDMENT, September 11, 1991; MEMORANDUM AND ORDER
- A The Commission reviews an Appeal Board decision affirming a Licensing Board decision that dismissed, for lack of standing, the sole remaining intervenor in an operating license amendment proceeding concerning the Turkey Point plant. The Commission decides not to disturb the Appeal Board's decision, but explicitly rejects and overrules the Licensing Board's ruling that a Board may raise a *sua sponte* issue in an operating license or operating license amendment proceeding where all parties in the proceeding have withdrawn or been dismissed. The Commission also provides guidance on the requirements for organizational standing.
- B Judicial concepts of standing are to be used to determine whether a petitioner has a sufficient interest to intervene in an NRC adjudicatory proceeding.
- C An organization that wishes to intervene in an NRC proceeding as of right must either demonstrate an injury in fact to the organization within the zone of interests of the governing statute, or it must establish standing as the representative of one or more members of the organization who can demonstrate such an injury within the zone of interests of the statute. See, e.g., Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), CLI-83-25, 18 NRC 327 (1983); Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610 (1976).
- D An organization whose objectives in regard to nuclear power are clearly defined and well advertised is not relieved of standing requirements. Pebble Springs, CLI-76-27, *supra*, 4 NRC at 613-14.
- E A would-be intervenor who cannot fulfill standing requirements, but who can nevertheless make a valuable contribution to the adjudicatory process, may request consideration of discretionary intervention. *Id.* at 614-17.
- F When there is no proceeding before a board, a board is deprived of the ability to gain the perspective on issues that is acquired by receiving the input of parties to a proceeding. In such circumstances, it is more appropriate to apply the expertise of the NRC's Staff and the informal Staff review process to the issues.
- G A licensing board does not have the authority to raise a *sua sponte* issue relating to an application for an operating license or amendments to an operating license when there is no proceeding before the board relating to the application.

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- H If, as a result of its involvement in a proceeding, a licensing board believes that there are serious safety issues that remain to be addressed, in circumstances where a single intervenor left in that proceeding voluntarily or involuntarily has withdrawn from the proceeding, the board should dismiss the case and refer the issues to the Staff for review.
- I Where there is only a single intervenor in a proceeding, the withdrawal of the intervenor brings the proceeding to a close. Public Service Co. of Colorado (Fort St. Vrain Independent Spent Fuel Storage Installation), October 29, 1990, published as an attachment to CLI-91-13.

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LBP-91-30 SACRAMENTO MUNICIPAL UTILITY DISTRICT (Rancho Seco Nuclear Generating Station), Docket No. 50-312-OLA (ASLBP No. 91-634-06-OLA); OPERATING LICENSE AMENDMENT; July 1, 1991; MEMORANDUM AND ORDER (Ruling on Petition to Intervene and Contentions)

- A The Licensing Board rules on petition to intervene filed in opposition to an application for a possession-only license for the Rancho Seco power reactor filed in advance of a decommissioning application. The Licensing Board finds that petitioner lacks standing to cause a hearing to be held and has failed to advance an acceptable contention.
- B An allegation that a proposed license amendment might, if granted, permit a licensee to allow a plant to deteriorate to the point that future operation would be unsafe is too remote and speculative to support standing under the Atomic Energy Act.
- C NEPA does not require that the Commission review a licensee decision to cease operations of and decommission a power reactor.
- D By itself, an allegation that a proposed license amendment deprives one of the legally protected right to comment on an environmental impact statement (EIS) or to information essential to an organization's purposes contained in an EIS is not sufficient to state an injury in fact that falls within the zone of interests protected by NEPA. To support standing, such an allegation must be accompanied by an allegation of another injury.

LBP-91-31 CURATORS OF THE UNIVERSITY OF MISSOURI, Docket Nos. 70-00270, 70-02278-MLA (ASLBP No. 90-613-02-MLA) (RE: TRUMP-5 Project) (Byproduct License No. 24-00513-32; Special Nuclear Materials License No. SNM-247); MATERIALS LICENSE AMENDMENT; July 10, 1991; MEMORANDUM AND ORDER (Final Initial Decision)

- A This case involved an application for a license to conduct experiments, including procedures involving 10 curies of unencapsulated americium and about 2 curies of plutonium. In this decision and a prior decision, the Presiding Officer ordered relief (including the installation of fire sprinklers and modification of Licensee's procedures) to reduce the risk of a serious fire that might disperse nuclear materials and to help to provide an adequate assurance of safety. The Presiding Officer then found that, in light of the imposed conditions, Licensee had demonstrated that licensed activities would provide an adequate assurance of safety. Licensee, which handles nuclear materials in unencapsulated form, was found to have demonstrated that there was no credible fire that would disperse the nuclear materials, injuring members of the general public.
- B A special nuclear materials licensee conducting experiments with actinides in pure form, using 10 curies of americium and 2 curies of plutonium, is not a plutonium processing facility under 10 C.F.R. §70.4.
- C The Presiding Officer discusses advantages and disadvantages of Subpart L in complex technical cases.
- D The Presiding Officer ordered relief (including the installation of fire sprinklers and modification of Licensee's procedures) to reduce the risk of a fire that might disperse nuclear materials and to help to provide an adequate assurance of safety. The Presiding Officer then found that, in light of the imposed conditions, Licensee had demonstrated that licensed activities would provide an adequate assurance of safety. Licensee, which handles nuclear materials in unencapsulated form, was found to have demonstrated that there was no credible fire that would disperse the nuclear materials, injuring members of the general public.

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- E Petitioners for oral argument or the submission of evidence other than as provided for in the written filings described in the rules must demonstrate that the argument or evidence is necessary for the adequacy of the record. 10 C.F.R. §§ 2.1233, 2.1235.
- F New information must fall within an admitted area of concern or meet criteria for late filing. Additionally, permission to file additional evidence will be denied even if it is within the scope of an admitted area of concern unless the evidence is necessary for the adequacy of the record.
- G Providing that Licensee can demonstrate an adequate assurance of safety, there is no NRC requirement of a buffer zone surrounding a laboratory in which experiments with unencapsulated plutonium and americium are being conducted.
- H Providing that a licensee demonstrates an adequate assurance of safety with respect to its use of licensed materials, and their safety from fire, its compliance or non-compliance with local fire ordinances designed to protect people from ordinary fire hazards is not relevant to the appropriateness of issuing a license to it.
- I A licensee that applies for a license amendment or renewal is an "applicant" and must comply with all regulations affecting applicants; they may not comply by filing a financial assurance for decommissioning pursuant to 10 C.F.R. §§ 30.35(c)(2) and 70.25(c)(2). See 10 C.F.R. §§ 30.35, 70.25.
- J Issues decided by a presiding officer become binding in the case unless raised in a timely motion for reconsideration or because there is reasonable cause for late filing.
- K The following technical issues are discussed: Adequacy of Staff review (found irrelevant); Adequacy of application standing by itself (found irrelevant); Administrative controls (special nuclear materials and byproduct materials); Special nuclear materials (fire sprinklers); Americium (unencapsulated); Basement laboratories (special nuclear materials and byproduct materials); Buffer zone (special nuclear materials and byproduct materials); Byproduct materials (fire protection, fire sprinklers); Decommissioning (special nuclear materials and byproduct materials); Disclosure of curie content (application for special nuclear materials license); Dispersion of unencapsulated actinides by fire; Emergency planning (special nuclear materials and byproduct materials, effective date of regulations); Entrainment of plutonium, americium; Experience to handle unencapsulated nuclear materials; Fire department response (radioactive materials); Fire exits (irrelevant to use of nuclear materials); Handling special nuclear materials and byproduct materials; HEPA filters (DOP testing in place); Laboratory construction (special nuclear materials and byproduct materials); Maximum credible fire (special nuclear materials and byproduct materials); Models of risk of fire involving nuclear materials (limited usefulness of models); Oral presentations (10 C.F.R. Subpart L); Plutonium (unencapsulated); Plutonium processing facility (10 C.F.R. § 70.4); Procedures (special nuclear materials and byproduct materials); Regulatory Guide 10.3, § 4.3; Responsibility of licensee for safety (special nuclear materials and byproduct materials); Role of other company in licensed project (special nuclear materials and byproduct materials); Special nuclear materials (fire protection); Staff order for submission of new application (effect of order on existing amendment proceeding); 10 C.F.R. Subpart L.
- LBP-91-32 LONG ISLAND LIGHTING COMPANY (Shoreham Nuclear Power Station, Unit 1), Docket No. 50-322-OLA-2 (ASLRP No. 91-631-03-OLA-2) (Possessive-Only License); OPERATING LICENSE AMENDMENT; July 18, 1991; MEMORANDUM AND ORDER (Ruling on Staff Motion for Reconsideration)
- A Claims of injury to an organization's ability to disseminate information, resulting from the agency's failure to prepare an environmental review, may satisfy standing requirements, where the information is essential to the organization's activities and the lack of the information nullifies its mission.
- LBP-91-33 GEORGIA POWER COMPANY, et al. (Vogtle Electric Generating Plant, Units 1 and 2), Docket Nos. 50-424, 50-425 (ASLRP No. 91-647-OLA-2); OPERATING LICENSE AMENDMENT; July 23, 1991; MEMORANDUM AND ORDER (Conditional Granting of Petition for Leave to Intervene)
- A In this Memorandum and Order, the Licensing Board conditionally grants the petition for leave to intervene. The grant is conditional because the Petitioner will not be permitted to participate as a party and its petition will be dismissed if the supplement to the petition for leave to intervene, listing contentions that it seeks to have litigated, fails to satisfy the requirements of 10 C.F.R. § 2.714(b)(2) and (d)(2).
- B While no affidavits were appended to the petition for leave to intervene, attesting that at least one member authorized the Petitioner to represent his or her interests, authorization might be presumed and

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could well be appropriate where, as here, it appeared that the sole or primary purpose of the petitioner organization was to oppose nuclear power in general or the facility at bar in particular. Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9 NRC 377, 396 (1979).

- C Under certain circumstances, even if a current proceeding is separate from an earlier proceeding, the Commission will refuse to apply its rules of procedure in an overly formalistic manner by requiring that petitioners, who participated in the earlier proceeding, must again identify their interests to participate in the current proceeding. Consumers Power Co. (Midland Plant, Units 1 and 2), CLI-74-3, 7 AEC 7, 12 (1974).
- LBP-91-34 CURATORS OF THE UNIVERSITY OF MISSOURI, Docket Nos. 70-00270, 70-02278-MLA (ASLBP No. 90-613-C2-MLA) (RE: TRUMPS Project) (Byproduct License No. 24-00513-32; Special Nuclear Materials License No. SNM-247); MATERIALS LICENSE AMENDMENT, August 5, 1991; MEMORANDUM AND ORDER (Clarification and Corrections in LBP-91-31)
- A The Presiding Officer determined that the relief issued in LBP-91-31 could be implemented sequentially, with Licensee implementing first one paragraph and then another, so long as at least one paragraph is in effect at all times. He also clarified his opinion concerning the prohibition that a vehicle using combustible fuels cannot be in the basement of MURR at the same time that acridities are actually in use in the laboratory. A few other minor corrections also were made.
- B The presiding officer has jurisdiction over a timely motion for reconsideration of a final initial decision, even though an appeal also has been filed. This is true both under Subpart L and Subpart G. 10 C.F.R. §§ 2.1259, 2.771.
- LBP-91-35 LONG ISLAND LIGHTING COMPANY (Shoreham Nuclear Power Station, Unit 1), Docket No. 50-322-OLA (ASLBP No. 91-621-01-OLA) (Confirmatory Order Modification, Security Plan Amendment, and Emergency Preparedness Amendment); OPERATING LICENSE AMENDMENT, August 29, 1991; MEMORANDUM AND ORDER (Ruling on Petitions to Intervene and Contentions)
- A Amended 10 C.F.R. § 2.714(b) raises the threshold for the admission of contentions to require a proponent to supply information showing the existence of a genuine dispute with the applicant on an issue of law or fact. It specifies what is required of a petitioner as part of its burden of going forward with information in support of a contention.
- LBP-91-36 GEORGIA POWER COMPANY, et al. (Vogtle Electric Generating Plant, Units 1 and 2), Docket Nos. 50-424-OLA-2, 50-425-OLA-2 (ASLBP No. 91-647-OLA-2); OPERATING LICENSE AMENDMENT, September 12, 1991; MEMORANDUM AND ORDER (Terminating Proceeding re Application to Amend Operating Licenses)
- A In this Memorandum and Order, the Licensing Board grants the Licensee's unopposed motion to terminate and, without condition, terminates the proceeding regarding the application to amend technical specifications of the operating licenses.
- B When a licensee has withdrawn its application to amend its operating licenses and moved to terminate the proceeding without condition, where the Licensing Board has not admitted any contentions as issues in controversy, and when there is no opposition to termination, there is no reason to issue a notice of hearing. In such circumstances, a motion to terminate without condition will be granted.
- LBP-91-37 WRANGLER LABORATORIES, LARSEN LABORATORIES, ORION CHEMICAL COMPANY, and JOHN P. LARSEN, Docket No. 9999004-R (ASLBP No. 91-648-01-R) (General License Authority of 10 C.F.R. § 40.22) (EA 87-223); ENFORCEMENT ACTION, September 26, 1991; MEMORANDUM AND ORDER (Terminating Proceeding)
- A In a show-cause proceeding involving a challenge to the Staff's Order revoking Licensees' right to operate under a general license for small quantities of source material, the Licensing Board terminates the proceeding upon the withdrawal from further participation of the Licensees.
- B When an enforcement proceeding is terminated because of the withdrawal of the Licensees, prior decisions as to which no appeals are extant should not be vacated for mootness, under the doctrine articulated in *United States v. Mustangwear, Inc.*, 340 U.S. 36 (1950), and its progeny.
- LBP-91-37A ARIZONA PUBLIC SERVICE COMPANY, et al. (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), Docket Nos. 50-528-OLA-2, 50-529-OLA-2, 50-530-OLA-2 (ASLBP No. 91-633-05-OLA-2) (Allowable Setpoint Tolerance); OPERATING LICENSE AMENDMENT, September 30, 1991; MEMORANDUM AND ORDER (Terminating Proceeding)

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DD-91-4 TEXAS UTILITIES ELECTRIC COMPANY (Comanche Peak Steam Electric Station, Units 1 and 2), Docket Nos. 50-445, 50-446; REQUEST FOR ACTION, September 18, 1991; DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Director of the Office of Nuclear Reactor Regulation denies a petition filed by Ms. Betty Brink, on behalf of Citizens for Fair Utility Regulation (CFUR), requesting action with regard to Comanche Peak Steam Electric Station, Units 1 and 2. Specifically, the Petition alleged that Texas Utilities Electric Company (TU Electric) had maintained and currently maintains waste disposal sites containing Class I hazardous chemicals on the site in violation of federal and local environmental statutes and regulations, that fires or explosions could occur, that the cooling water to the plant could be contaminated and corrode vital components of the plant's cooling system, and that in violation of 10 C.F.R. § 50.9, TU Electric failed to reveal environmental and safety-related information that was material to the licensing of the Comanche Peak plant. The Petitioner requests that a supplemental environmental impact statement be prepared pursuant to 10 C.F.R. § 51.20(a) and that appropriate action be taken against TU Electric for its violation of 10 C.F.R. § 50.9.

B The institution of proceedings pursuant to 10 C.F.R. § 2.206 is appropriate only where substantial health and safety issues have been raised. See Consolidated Edison Co. of New York (Indian Point, Units 1, 2, and 3), CLJ-75-8, 2 NRC 173, 176 (1975), and Washington Public Power Supply System (WPPSS Nuclear Project No. 2), DD-84-7, 19 NRC 899, 923 (1984).

DD-91-5 TEXAS UTILITIES ELECTRIC COMPANY (Comanche Peak Steam Electric Station, Unit 1), Docket No. 50-445; REQUEST FOR ACTION, September 27, 1991; DIRECTOR'S DECISION UNDER 10 C.F.R. 2.206

A The Director, Office of Nuclear Reactor Regulation, denies a Petition filed by Ms. Betty Brink requesting that a proceeding be instituted to determine if the operating license issued to Texas Utilities Electric Company (TU Electric) for the Comanche Peak Steam Electric Station, Unit 1, should be revoked, modified, or suspended. As bases for the request, the Petitioner asserts concerns regarding the continued failure of Borg-Warner check valves at Comanche Peak and the failure of TU Electric to take adequate corrective actions to resolve these check-valve failures.

B The NRC will not institute a show-cause proceeding where the petition fails to raise any substantial health or safety issue.

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DIGESTS
ISSUANCE OF DENIALS OF PETITION FOR RULEMAKING

DPRM 91-3 SIERRA CLUB OF NORTH CAROLINA, Docket No. PRM 61-1; June 25, 1991; DENIAL OF PETITION FOR RULEMAKING

- A The Nuclear Regulatory Commission (NRC) is denying a petition, as amended, for rulemaking submitted by the Sierra Club of North Carolina (PRM 61-1). The petition and amendment requested that the NRC amend its regulations in 10 C.F.R. Part 61 to permit the licensing of a zero-release low-level radioactive waste disposal facility within the saturated zone. The NRC is denying the petition for the following reasons: (1) The design of a zero-release engineered facility for extremely long time periods is beyond the current level of demonstrated technology known to the NRC Staff, and (2) the existing rule allows for saturated-zone disposal under a specific hydrologic condition; however, the effort to develop regulations for enhanced engineered saturated-zone disposal, under a broad range of hydrologic conditions, would be significant, and the NRC is not aware of interest in this type of disposal by state authorities.
- B The concept upon which 10 C.F.R. Part 61 is based is that the very slow release of radionuclides that meet regulatory requirements is acceptable. Therefore, designing a perpetual facility for "zero release" might require NRC to develop an entirely new regulation.
- C The following technical issues are discussed: Radioactive release (zero release), Fiber-reinforced polymer concrete, Saturated zone.

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