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Index 2

INDEXES TO NUCLEAR REGULATORY COMMISSION ISSUANCES

July - December 1995



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 20555-0001
(301/415-6844)

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 Decisions on 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 (operating license, operating license amendment, 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. Headers and Digests

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 Judges (ALJ), the Directors' Decisions (DD), and the Decisions on 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

This 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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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.

CLI-95-12 GEORGIA INSTITUTE OF TECHNOLOGY (Georgia Tech Research Reactor), Docket No. 50-160-Ren (Renewal of License No. R-97); OPERATING LICENSE RENEWAL; October 12, 1995; MEMORANDUM AND ORDER

A The Commission considers the appeal of an Atomic Safety and Licensing Board decision, LBP-95-6, 41 NRC 281 (1995), which granted a request for intervention and for hearing on an application submitted by the Georgia Institute of Technology (Georgia Tech), and admitted two contentions. In a previous order, CLI-95-10, 42 NRC 1 (1995), the Commission remanded one contention to the Board. The Commission denies the appeals by Georgia Tech and the Nuclear Regulatory Commission (NRC) Staff, and affirms LBP-95-6, finding that the Petitioner meets threshold requirements for standing and an admissible contention.

B For standing, a petitioner must allege a concrete and particularized injury that is fairly traceable to the challenged action and likely to be redressed by a favorable decision.

C To derive standing from a member, an organization must demonstrate that the individual member has standing to participate, and has authorized the organization to represent his or her interests.

D Unless there has been a clear misapplication of the facts or law, the Licensing Board's judgment that a party has established standing is entitled to substantial deference.

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- E A presumption of standing based on geographic proximity may be applied in cases involving nonpower reactors where there is a determination that the proposed action involves a significant source of radioactivity producing an obvious potential for offsite consequences. Whether and at what distance a petitioner can be presumed to be affected must be judged on a case-by-case basis, taking into account the nature of the proposed action and the significance of the radioactive source.
- F A contention must include a specific statement of the issue of law or fact to be raised or controverted, a brief explanation of the bases of the contention, and a concise statement of the alleged facts or expert opinion that support the contention, together with references to those specific sources and documents on which the petitioner intends to rely to prove the contention. The petitioner must also demonstrate the existence of a genuine dispute with the applicant on a material issue of law or fact.
- G As part of its licensing and oversight responsibilities, the Commission may consider the adequacy of a licensee's corporate organization and the integrity of its management. The past performance of management may help indicate whether a licensee will comply with agency standards.
- H Allegations of management improprieties or lack of "integrity" must be of more than historical interest: they must relate directly to the proposed licensing action.
- CLI-95-13 PORTLAND GENERAL ELECTRIC COMPANY (Trojan Nuclear Power Station), Docket No. 50-344; DECOMMISSIONING, October 12, 1995; MEMORANDUM AND ORDER
- A The Commission decides that under *Citizens Awareness Network v. NRC*, 59 F.3d 284 (1st Cir. 1995), the Licensee is not required to halt its substantially completed Large Component Removal Project (LCRP), but finds that the Licensee cannot conduct any further "major dismantling" of the Trojan facility until final NRC approval of the Trojan decommissioning plan, thus restoring effect to the NRC's pre-1993 interpretation of its 1988 decommissioning rules.
- B The NRC will exercise its enforcement discretion and not halt a substantially completed Large Component Removal Project (LCRP) where both the Licensee and the NRC Staff have prepared safety analyses that conclude that the LCRP presents no undue risk to public health and safety; where the party seeking to stop the LCRP has failed to ask for a hearing in a timely fashion; where the balance of harm to the parties does not weigh heavily against either party; and where there will be an opportunity for a hearing on the remaining 99% of the decommissioning plan.
- C In some limited cases, NRC Staff review of a Licensee's preliminary environmental document may satisfy the requirement for an Environmental Assessment.
- D Where the radioactivity involved in a Licensee's LCRP is only 1% of the facility's total nonfuel radioactivity, halting further dismantling at the facility pending final decommissioning plan approval gives ample effect to a court decision concerned that the "decommissioning plan approval process" should be followed before "the actual decommissioning activities are already completed[.]"
- CLI-95-14 YANKEE ATOMIC ELECTRIC COMPANY (Yankee Nuclear Power Station), Docket No. 50-029; DECOMMISSIONING, October 12, 1995; MEMORANDUM AND ORDER
- A On remand from the First Circuit Court of Appeals, the Commission holds that the Court's decision (*Citizens Awareness Network v. NRC*, 59 F.3d 284 (1st Cir. 1995)), reinstating the NRC's pre-1993 decommissioning policy, requires issuance of a notice of opportunity for an adjudicatory hearing on the Yankee NPS decommissioning plan. The Commission directs the Licensee to inform it promptly of the steps it will take to come into compliance with the reinstated rule. The Commission notes that NRC regulations prohibit Yankee Atomic from conducting further major dismantling or decommissioning activities until after completion of the hearing process.
- B The NRC has defined "major dismantling" under the 1988 regulations as "major structural changes to radioactive components of the facility or other major changes . . ." See 53 Fed. Reg. 24,018, 24,025 (1988) ("Statement of Considerations," 1988 decommissioning rule).
- C Under the Commission's pre-1993 interpretation of its 1988 decommissioning regulations, a nuclear power plant licensee may not conduct major decommissioning activities prior to final NRC approval of a decommissioning plan.
- D Prior to 1993, the Commission had consistently interpreted its 1988 regulations on decommissioning as requiring an adjudicatory hearing prior to the NRC's final approval of a licensee's decommissioning plan.

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- E A licensee's argument that the NRC's provision of an adjudicatory hearing on a previously approved decommissioning plan may result in financial hardship to the licensee due to decommissioning delays, does not excuse the Commission from providing a meaningful remedy to effectuate a Court of Appeals decision.
- F Where a Court of Appeals has recognized in its decision that a licensee has virtually completed major decommissioning of a nuclear power plant, but that a continued removal of radioactive material will continue to pose safety and health questions, the NRC considers itself duty bound to take the only action available to it that gives meaning to the Court's decision — provide an adjudicatory hearing on the licensee's decommissioning plan in accordance with the Commission's pre-1993 interpretation of its regulations.
- CLI-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; OPERATING LICENSE AMENDMENT; November 21, 1995; MEMORANDUM AND ORDER
- A The Commission reviews an Interlocutory Atomic Safety and Licensing Board decision made orally on the record (Sept. 6, 1995, Tr. at 13,154-58), ordering the Licensee to produce notes taken by the Licensee's attorney on communications with a Licensee employee. The Commission concludes that the notes are protected under the attorney-client privilege, and vacates the Licensing Board's order.
- B Typically, discovery orders can be reviewed on appeal following a final judgment and a claim of privilege is not alone sufficient to justify interlocutory review.
- C Immediate review may be appropriate in exceptional circumstances, when the potential difficulty of later unscrambling and remedying the effects of an improper disclosure of privileged material would likely result in an irreparable impact.
- D The attorney-client privilege protects from discovery confidential communications from a client to an attorney made to enable the attorney to provide informed legal advice. The privilege is applicable when a corporation is the client.
- E Key to application of the attorney-client privilege is a showing that the communication was made for the corporation to obtain legal advice, that it was made confidentially, and that it was not disseminated beyond those with a need to know.
- F Not every communication by an employee to counsel is privileged. Communications made for business or personal advice are not covered by the privilege. Privileged communications concern matters within the scope of the employee's duties.
- G The attorney-client privilege protects only the communications of facts from client to attorney, not the underlying facts themselves.
- CLI-95-16 SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS (Gore, Oklahoma Site). Docket No. 40-8027-EA (Decontamination and Decommissioning Funding); ENFORCEMENT ACTION; December 14, 1995; MEMORANDUM AND ORDER
- A The Commission reverses the portion of the Atomic Safety and Licensing Board's Order, LBP-95-5, 41 NRC 253 (1995), that entered a provision in a protective order restricting the NRC Staff from referring confidential information obtained through discovery to other NRC offices without first obtaining Board approval. The Commission vacates that provision and directs the Board to enter a new provision in accordance with this opinion.
- B The Atomic Safety and Licensing Board may not place itself in the position of deciding whether the NRC Staff should be permitted to refer information obtained through discovery to NRC investigatory staff offices.
- C The licensing board performs the important task of judging factual and legal disputes between parties, but it is not an institution trained or experienced in assessing the investigatory significance of raw evidence.
- D The regulation permitting the Board to enter protective orders, 10 C.F.R. § 2.740, is procedural and may not be read to enlarge the Licensing Board's authority into areas that the Commission has clearly assigned to other offices.
- CLI-95-17 CURATORS OF THE UNIVERSITY OF MISSOURI (TRUMP-S Project) (Byproduct License No. 24-00513-32; Special Nuclear Materials License No. SNM-247); MATERIALS LICENSE AMENDMENT; December 14, 1995; MEMORANDUM AND ORDER (Petition for Reconsideration)

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- A The Commission denies the Intervenor's petition for reconsideration of an order (CLI-95-11, 42 NRC 47 (1995)) imposing a condition upon the University of Missouri regarding its TRUMP-S experiments. The Commission rules that the NRC Chairman had sufficient authority to approve CLI-95-11 despite the absence of a three-person Commission; the Commission's acknowledgment in CLI-95-11 that the site of the experiments is highly accessible to the public did not necessitate a reexamination of the safety of the TRUMP-S Project; and a challenged licensing condition, imposed by the Commission in CLI-95-11, regarding the Licensee's actions during an Alert is adequate to protect the public.
- B Pursuant to section 3 of the NRC Reorganization Plan No. 1 of 1980, an order may be issued on the authority of only one Commissioner rather than the quorum of three called for by the Energy Reorganization Act of 1974.
- C An amendment to an Emergency Plan is unnecessary if it would not enhance the public safety and would not make a requirement previously imposed by a Commission order any more enforceable than it already is.
- D Counsel's derogatory description of the NRC Staff constitutes intemperate, even disrespectful, rhetoric and is wholly inappropriate in legal pleadings.
- E An adjudicator at the Commission has the authority to delegate to the NRC Staff the responsibility of verifying that the licensee or applicant has responded adequately to a license condition imposed by the adjudicator. Because meetings between NRC Staff and a licensee under such delegated authority are public, such delegation does not deprive Intervenor of an opportunity to know what communications transpire between the University and Staff, or to know the basis of any Staff determination, or to contest such determination. The Intervenor would receive advance notice of, and would be permitted to attend, such meetings.
- F If the Intervenor disagrees with conclusions reached at a meeting between Staff and licensee regarding whether the licensee had complied with the Commission's licensing conditions, the Intervenor may seek further agency action by filing a petition with the Commission pursuant to 10 C.F.R. § 2.206. The Staff response to such a petition would be subject to the ultimate oversight of the Commission itself.

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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 Superseding 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.

DIGESTS
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- LBP-95-17 CLEVELAND ELECTRIC ILLUMINATING COMPANY, et al. (Perry Nuclear Power Plant, Unit 1), Docket No. 50-440-OLA-3 (ASLBP No. 90-605-02-OLA); OPERATING LICENSE AMENDMENT; October 4, 1995; MEMORANDUM AND ORDER (Ruling on Motions for Summary Disposition)
- A The Licensing Board grants the Intervenor's motion for summary disposition in this proceeding involving a license amendment to remove from the facility technical specifications the schedule for the withdrawal of reactor vessel material surveillance specimens.
- B Because Appendix H of Part 50 is legislative in character, the rules of interpretation applicable to statutes are equally germane to determining that regulation's meaning. 1A Sutherland, Statutory Construction § 31.06 (5th ed. 1992).
- C Where the meaning of a regulation is clear and obvious, the regulatory language is conclusive and we may not disregard the letter of the regulation. We must enforce the regulation as written.
- D We may not read unwarranted meanings into an unambiguous regulation even to support a supposedly desirable policy that is not effectuated by the regulation as written. See 2A Sutherland, Statutory Construction § 46.01 (5th ed. 1992).
- E To discern regulatory meaning, we are not free to go outside the express terms of an unambiguous regulation to extrinsic aids such as regulatory history. Aids to interpretation only can be used to resolve ambiguity in an equivocal regulation, never to create it in an unambiguous one.
- LBP-95-18 SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS (Gore, Oklahoma Site Decontamination and Decommissioning Funding), Docket No. 40-8027-EA (ASLBP No. 94-684-01-EA) (Source Material License No. SUB-1010); ENFORCEMENT ACTION; October 26, 1995; MEMORANDUM AND ORDER (Approval of Settlement Agreement)
- LBP-95-19 GEORGIA INSTITUTE OF TECHNOLOGY (Georgia Tech Research Reactor, Atlanta, Georgia), Docket No. 50-160-Ren (ASLBP No. 95-704-01-Ren) (Renewal of Facility License No. R-97); OPERATING LICENSE RENEWAL; November 1, 1995; PARTIAL INITIAL DECISION (Mootness of Security Contention)
- A With respect to a contention challenging the physical security of the site during the 1996 Summer Olympic Games, the Licensing Board determines that the Applicant's proposed removal of fuel from the site prior to the Olympic Games and not replacing it until after the Olympic Games makes the contention moot, notwithstanding the Applicant's failure to remove other radioactive materials under the control of the State of Georgia as an Agreement State (concerning which the Board lacks jurisdiction).
- B Mootness is not necessarily dependent upon a party's views that its claims have been satisfied but, rather, occurs when a justiciable controversy no longer exists.
- LBP-95-20 ENERGY FUELS NUCLEAR, INC., Docket No. 40-8681-MLA-3 (ASLBP No. 94-693-02-MLA-3) (Source Material License No. SUA-1358); MATERIALS LICENSE AMENDMENT; November 3, 1995; MEMORANDUM AND ORDER (Terminating Proceeding)
- LBP-95-21 DR. JAMES E. BAUER (Order Prohibiting Involvement in NRC-Licensed Activities), Docket No. IA-94-011 (ASLBP No. 94-696-05-EA); ENFORCEMENT ACTION; November 13, 1995; MEMORANDUM AND ORDER (Approving Settlement Agreement and Dismissing Proceeding)
- LBP-95-22 WESTERN INDUSTRIAL X-RAY INSPECTION COMPANY, INC., and LARRY D. WICKS, Docket Nos. 30-32190-EA, 30-32190-EA-2, IA-94-024 (ASLBP Nos. 94-699-09-EA, 95-702-01-EA-2, 95-703-02-EA); ENFORCEMENT ACTION; November 16, 1995; FINAL INITIAL ORDER (Approval of Settlement and Dismissal)
- LBP-95-23 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; November 22, 1995; MEMORANDUM AND ORDER (Denial of Petition for Leave to Intervene)
- 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 determines that the single petitioner for intervention has standing but has not proffered an acceptable contention and, accordingly, denies the petition for leave to intervene.
- B Where there are two ongoing proceedings involving the same facility, an intervenor in the first proceeding need not reiterate its statement of standing in the second proceeding but may instead rely on its standing in the earlier proceeding.

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LBP-95-24 SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS (Gore, Oklahoma Site Decontamination and Decommissioning Funding), Docket No. 40-8027-EA (ASLBP No. 94-684-01-EA) (Source Material License No. SUB-1010); ENFORCEMENT ACTION, December 18, 1995; ORDER (Modification of Protective Order)

LBP-95-25 RADIATION ONCOLOGY CENTER AT MARLTON (Marlton, New Jersey), Docket No. 30-32493-CivP (ASLBP No. 95-709-02-CivP) (EA 93-072) (Byproduct Materials License No. 29-28685-01); ENFORCEMENT ACTION, December 20, 1995; PREHEARING CONFERENCE ORDER (Issues and Schedules for Proceeding)

A In a civil penalty proceeding, the Licensing Board enters a Prehearing Conference Order setting forth issues in controversy and establishing schedules for the proceeding.

B Although recognizing the Staff's broad discretion in determining the amount of a civil penalty, results reached in other cases may nonetheless be relevant in determining whether the Staff may have abused its discretion in this case. A nexus to the current proceeding would have to be shown, and differing circumstances might well explain seemingly disparate penalties in various cases.

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DD-95-13 ROSEMOUNT NUCLEAR INSTRUMENTS, INCORPORATED (Eden Prairie, Minnesota),
Docket No. 95900271; 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.

DD-95-21 SEQUOYAH FUELS CORPORATION (Gore, Oklahoma Facility), Docket No. 40-8027; REQUEST FOR ACTION; October 23, 1995; DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Director of the Office of Nuclear Materials Safety and Safeguards denies in part a petition dated March 11, 1995, filed with the Nuclear Regulatory Commission (NRC) by Native Americans for a Clean Environment (NACE), requesting that the NRC take action with respect to the Sequoyah Fuels Corporation (SFC) facility in Gore, Oklahoma. The petition requests that the NRC: (1) reverse the NRC Staff's decision to permit SFC to proceed with site characterization without submitting a final Site Characterization Plan (SCP) by issuing an Order or a Confirmatory Action Letter obliging SFC to submit a final SCP by a date certain; (2) obtain a copy of the Environmental Protection Agency's (EPA) title search or perform a title search of all property used in connection with the SFC license in order to clarify the identity and ownership of all property subject to NRC License No. SUB-1010; (3) issue an order forbidding SFC, Sequoyah Fuels International Corporation, Sequoyah Holding Corporation, or any other associated corporation that holds title to property under NRC License No. SUB-1010 from transferring any interest in any of its property before SFC applies for and receives a license amendment authorizing transfer; and (4) before issuing any such license amendment, find reasonable assurance that any entity acquiring an interest in the SFC property fully understands the nature of the liabilities and responsibilities it is undertaking for cleanup and long-term care of the site and that it has the financial capability to carry out those responsibilities.

B The Petitioner's request that SFC be ordered to submit a written final SCP by a date certain is denied. Petitioner's request that NRC perform a title search of property subject to NRC License No. SUB-1010 was satisfied by EPA's provision of a copy of the title search it had performed. Action on Petitioner's request for an order forbidding the transfer of any interest in land subject to NRC License No. SUB-1010 before SFC applies for and receives a license amendment permitting such transfers is unnecessary because applicable regulations address Petitioner's concerns. Likewise, Petitioner's request that, before granting such a license amendment application, NRC ensure that potential purchasers of property be subject to NRC License No. SUB-1010 to be fully apprised of their obligations for site remediation and long-term care and that NRC ensure that such potential purchasers are financially qualified to do so, is unnecessary because applicable regulations address Petitioner's concerns.

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DD-95-22 MAINE YANKEE ATOMIC POWER COMPANY (Maine Yankee Atomic Power Plant), Docket Nos. 50-309 (License No. DPR-36); OMAHA PUBLIC POWER DISTRICT (Fort Calhoun, Unit 1), Docket No. 50-285 (License No. DPR-40); BALTIMORE GAS AND ELECTRIC COMPANY (Calvert Cliffs, Units 1 and 2), Docket Nos. 50-317, 50-318 (License Nos. DPR-53, DPR-69); NORTHEAST NUCLEAR ENERGY COMPANY (Millstone Nuclear Power Station, Unit 2), Docket No. 50-336 (License No. DPR-65); FLORIDA POWER AND LIGHT COMPANY (St. Lucie Nuclear Power Plant, Unit 1), Docket No. 50-335 (License No. DPR-67); REQUEST FOR ACTION; December 6, 1995; DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Director of the Office of Nuclear Reactor Regulation has denied a petition filed by John F. Doherty, J.D., requesting that six pressurized-water reactors be shut down and that the steam generator tubes at each of those plants be inspected. The petition is based on a recent inspection of the Maine Yankee plant using the Point Plus system which allegedly revealed steam generator tubes on the verge of rupture. Because the other plants identified in the petition were built by the same manufacturer and are of similar operating design, Mr. Doherty asks that they be shut down and immediately inspected using the Point Plus probe system. The reasons for the denial are fully set forth in the Decision.

DD-95-23 NORTHEAST NUCLEAR ENERGY COMPANY (Millstone Nuclear Power Station, Unit 1), Docket No. 50-245 (License No. DPR-21); REQUEST FOR ACTION; December 19, 1995; DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206

A The Director of the Office of Nuclear Reactor Regulation has denied a petition by Anthony J. Ross. The Petitioner requested that the NRC take enforcement action against certain individuals at Millstone Nuclear Power Station Unit 1 for deliberate misconduct in connection with the site paging and site siren evacuation alarm system in the facility maintenance shop. Following a review of the issues raised by the Petitioner, the Director has concluded that no substantial health and safety issues have been raised that would warrant the action requested by the Petitioner.

B The following technical issue is discussed: emergency plans.

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