

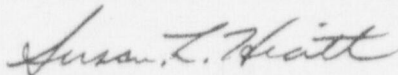
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August 8, 1987

SUPPLEMENTAL COMMENTS OF OHIO CITIZENS FOR RESPONSIBLE ENERGY, INC. ('OCRE') ON PROPOSED REVISION TO ECCS RULE, 10 CFR 50.46, 52 FED REG 6334 (MARCH 3, 1987)

In its July 31, 1987 comments OCRE stated that the primary motive for the rule change, cost savings to licensees, is illegal. A recent Court of Appeals decision vacating the NRC's Backfit Rule corroborates this position. In Union of Concerned Scientists v. NRC, Case Nos. 85-1757 and 86-1219, decided August 4, 1987, the D.C. Circuit Court held that in setting or enforcing the standard of "adequate protection" required by Section 182 of the Atomic Energy Act, the Commission may not consider the economic costs of safety measures. Slip op. at 12, 20. The current ECCS rule is part of the standard of "adequate protection", as compliance therewith is mandatory and is a condition of licensing, 10 CFR 50.57(a)(2). See also Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station) ALAB-161, 6 AEC 1003, 1009 ("the sine qua non of adequate protection to public health and safety is compliance with all applicable safety rules and regulations promulgated by the Commission.") Making any changes to the ECCS rule is altering the content, and thus "determining the content of the adequate protection standard" in which there can be no consideration of costs to licensees. UCS v. NRC, slip op. at 20. It is for this additional reason, then, that the Commission cannot justify its rule change on the basis of cost savings to licensees.

Respectfully submitted,



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