

# ADJUDICATORY ISSUE INFORMATION

January 4, 2001

SECY-01-0002

For: The Commissioners

From: John F. Cordes, Director /RA/  
Office of Commission Appellate Adjudication

Subject: ANNUAL REPORT ON COMMISSION ADJUDICATION

Purpose: To provide the Commission a perspective on the adjudicatory caseload and the Commission's role in adjudication during calendar year 2000.

## INTRODUCTION

At the NRC, the Commission alone is authorized to review the decisions of presiding officers and Atomic Safety and Licensing Boards in agency adjudications. The Office of Commission Appellate Adjudication (OCAA) assists the Commission in this role. The Commission may exercise its appellate authority to review these trial-level decisions either when a dissatisfied party to an NRC adjudicatory proceeding seeks review, or when the Commission, on its own initiative, determines that review is warranted. The Commission also has original jurisdiction to offer the Licensing Board guidance on significant novel questions raised in a proceeding and to resolve those occasional legal matters that appropriately should be resolved in the first instance directly by the Commission. Moreover, beginning in 1999, the Commission has taken on original jurisdiction over all reactor license transfer proceedings -- an area in which OCAA takes the lead in assisting the Commission.

As part of OCAA's monitoring role over adjudicatory matters, I am providing the Commission this annual report on agency adjudications for calendar year 2000. This report updates information contained in the last report (SECY-00-0005; Jan. 5, 2000), and is based upon the information in the attached charts. Chart 1 presents information regarding the **25** substantive decisions (CLIs) issued by the Commission in 2000, Chart 2 identifies the **13** final decisions issued by presiding officers or Licensing Boards in 2000, and Chart 3 lists and describes the **11** new proceedings that the Commission referred to the Atomic Safety and Licensing Board Panel (ASLBP) in 2000. Chart 4 provides a numerical breakdown of the proceedings referred to the ASLBP since OCAA's inception in July 1991 -- divided into substantive and procedural categories. Finally, Chart 5 provides a breakdown of Commission decisions issued during that same period, divided into substantive and jurisdictional categories.

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## **GENERAL OBSERVATIONS AND TRENDS**

The year 2000 was a busy year for adjudications at the Commission level, but marked a slowdown from the blistering rate of adjudication in 1999. The number of CLIs issued in 2000 (**25**) fell back from the peak level of 30 CLIs issued in 1999, but the CLI output in 2000 was still the third-highest of the Commission's last decade. Gauging by the numbers, the year 2000 also saw somewhat fewer adjudications at the Licensing Board level. The ASLBP's **35** LBPs (including non-final orders) in 2000 marked a return to a more typical level (about average for the last decade) after a one-year increase to 46 LBPs in 1999. The **13** final Board (or presiding officer) decisions in 2000 fell below the decade's average (16) and, indeed, was the lowest since 1993, reflecting a 50-percent decline from the levels of the previous four years (21 in 1999, 20 in 1998, 23 in 1997, and 19 in 1996). The number of new proceedings referred to the ASLBP (**11**) remained at its ten-year average level of roughly a dozen. However, this number of referrals is deceptive because it does not include requests for hearing in **5** reactor or materials license transfer applications -- a category of proceeding over which the Commission itself exercises direct jurisdiction. In all, then, the year 2000 saw the initiation of **16** new adjudications (compared with 19 in 1999). Given that the number of new adjudications in a particular year has proven to be a relatively good advance indicator of the number of CLIs and final LBPs issued in the following year, we may see in 2001 another small drop in the agency's overall adjudicatory activity.

### 1. The ASLBP's Caseload

The number of new enforcement cases remained low, increasing (insignificantly) from 1 to **2**. This continues the trend of the last several years, perhaps reflecting a decreased NRC emphasis on formal enforcement orders. The new reactor-related cases (license amendment, license renewal, decommissioning, and operator license proceedings) went up slightly in 2000, from 2 to **3** -- about typical for the last decade, except for an aberrational jump to 12 in 1998. Materials cases continued to dominate the categories of new cases, with **6** such new proceedings climb (compared with 9 in 1999, 7 in 1998 and 6 in 1997). For the second year running (and also for only the second time since the inception in 1989 of the informal Subpart L rules), the Board in 2000 processed the bulk of its new caseload using those procedures (**6** cases) rather than Subpart G (**4** cases) or Subpart K (**1** case).

### 2. The Commission's Caseload

The number of CLIs issued in 2000 was 5 less than in 1999. This decrease is essentially attributable to two developments. First, the reactor transfer proceedings yielded **8** in 2000, compared with 11 CLIs in 1999. Second, the complex Hydro Resources materials licensing case generated **3** CLIs in 2000, compared with 6 CLIs in 1999. Due in large part to the decline in the number of Hydro Resources decisions, the number of materials license CLIs declined from 10 to **6**. The number of reactor license amendment decisions declined from 3 to **0**, well below its average level of 3 since 1995. The enforcement CLIs dropped from 1 to **0** -- the lowest figure since OCAA began keeping records in 1991. The number of reactor license renewal CLIs in 2000 remained at **1** -- the same as in 1999. The Commission also issued **4** CLIs in the Private Fuel Storage ISFSI proceeding, **1** involving an export license application, **1** involving an exemption request, and **1** regarding a materials license transfer application.

Looking at the Commission's CY2000 orders from a procedural perspective, the CLIs are dominated by those **16** that were issued under the Commission's original jurisdiction (down slightly from 17 in 1999, but still up significantly from the 10, 2, 2, and 5 such CLIs issued in '98, '97, '96, and '95, respectively). The Commission issued **9** of these 16 CLIs in the new Subpart M license transfer proceedings. The relative dominance of the Commission's original docket over its appellate docket derives from the Subpart M innovation and from the Commission's continuing effort to manage its adjudicatory caseload aggressively.

Interlocutory appeals as of right under section 2.714a continued to decline from prior years -- numbering only **1** in 2000 as compared to 5 in 1999 and 7 in 1998. This marks a return to the levels of the three preceding years: 2, 1 and 1 during '97, '96 and '95, respectively. The Commission ruled on **2** discretionary appeals -- about the average since 1995 (2.3) -- and **0** sua sponte matters (compared with 1, 2, 0, 1 and 1 in '99, '98, '97, '96 and '95, respectively). The Commission issued 6 final "merits" decisions -- about average when compared with 4, 2, 11, 9 and 5 in '99, '98, '97, '96 and '95, respectively.

### 3. Speed in Resolving Cases

Neither the Commission nor the Boards can control many of the factors that govern the speed at which cases are resolved (e.g., the number and complexity of the issues, the willingness of parties to settle, the pace with which the Department of Justice pursues parallel criminal actions). Nevertheless, speed in reaching decisions will be viewed by some outside the Commission as a reflection of its level of emphasis on both the importance of adjudications and the need for their expeditious resolution. The Commission's continued willingness to become involved in cases earlier, to set proposed schedules for adjudications, to monitor Board action (or inaction) more closely, and generally to take a more active supervisory role should assist in moving proceedings forward at the Board level. OCAA will continue to monitor the Board's adjudicatory caseload and be on the lookout for opportunities where the Commission may appropriately exercise its supervisory role.

The ASLBP has committed itself to issuing decisions within 60 days after the parties file their closing pleading. Similarly, OCAA has undertaken to complete its drafts of Commission decisions in all but the most complex cases within 60 days of receipt of the final appellate document (and 90 days in cases of particular complexity). In 2000, OCAA has been less successful than previously in getting its draft CLIs to the Commission quickly, averaging 53 calendar days after receipt of the last salient document (compared with 20 days 1999), with **6** of the **22** orders<sup>1</sup> submitted in less than a week. OCAA missed its targets in **1** order in a regular case and **3** orders in complex cases.

OCAA's increased turnaround time is dually attributable to a commensurate increase in complex orders (**5** in 2000 as compared with 3 in 1999) and OCAA being seriously understaffed from January until October. The return of our new third attorney from maternity leave in October and the arrival (also in October) of a much-needed fourth attorney should place OCAA in a better position to promptly provide the Commission with draft orders. However, Subpart M applications

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<sup>1</sup> Of the 25 CLIs issued in 2000, OCAA drafted 22 in that same year and 1 in 1999; OGC drafted the remaining two CLIs that were issued in 2000.

could still strain the recently-enhanced resources of OCAA when these proceedings actually go to hearing, as has already happened in the FitzPatrick / Indian Point 3 proceeding. This is because Subpart M contemplates that the Commission itself (rather than the Board) will in the first instance resolve contested applications on the merits, after a hearing, with OCAA ordinarily providing drafting assistance to the Commission.

#### 4. Future Agency Caseload

As OCAA noted in both its 1998 and 1999 Annual Reports, we anticipate that the Commission will continue to face adjudications involving reactor relicensing, reactor decommissioning,<sup>2</sup> and reactor license transfers. The age of many currently-operating reactors makes an upswing in the first two categories quite likely, and the ongoing restructuring of the electric industry makes a significant number of the third category probable. In the materials licensing area, the Hydro Resources and Private Fuel Storage cases likely will continue to generate adjudicatory controversies for the next year or more. Also, the Commission can expect a continued minimal enforcement caseload.

As we noted in our 1999 Annual Report, another factor that could affect the Commission's future caseload is the still-anticipated reform of the NRC's hearing process. The potential impact here is unpredictable. A reformed system may succeed over time in reducing threshold procedural disputes and winnowing out insubstantial claims -- thus saving adjudicatory time by the Commission and its staff. On the other hand, the Commission's current interest in moving toward more informal proceedings could generate additional proceedings and an increased workload, as members of the public become aware that participation in the NRC process need not be overly costly or complex. Moreover, significant changes in the NRC's existing procedural rules may trigger a concomitant increase in procedural disputes in adjudications, at least in the short term. Finally, in the near future, the Commission caseload could become dominated by the Yucca Mountain licensing proceeding, assuming that the site survives threshold scrutiny by DOE, the President and the Congress.

#### **SIGNIFICANT DECISIONS IN 2000**

In 2000, the Commission issued the following six CLIs addressing significant issues:

In the materials licensing area:

Hydro Resources Inc., CLI-00-8, 51 NRC 227 (5/25/00) (Commission ruled that the NRC staff's review and approval of the financial assurance plan and its cost estimate should logically come prior to, or be a part of, the issuance of the materials license; imposed a condition to remedy the staff's failure to do so).

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<sup>2</sup> Although the Commission by rulemaking has removed decommissioning itself from the adjudicatory process, the process of decommissioning nonetheless will likely "spin off" occasional adjudications. E.g., Yankee Atomic Elec. Co., LBP-98-12, 47 NRC 343, aff'd in part and rev'd in part, CLI-98-21, 48 NRC 85 (1998). The Board is currently considering a challenge to Maine Yankee's license termination plan (a decommissioning document).

In the developing area of license transfers:

GPU Nuclear, Inc. (Oyster Creek), CLI-00-6, 51 NRC 193 (5/3/00).  
Moab Mill Reclamation Trust, CLI-00-7, 51 NRC 216 (5/3/00) (first Commission order on a materials license transfer).  
Northern States Power Co. (Monticello & Prairie Island), CLI-00-14, 52 NRC 37 (8/1/00).  
Vermont Yankee Nuclear Power Corp. (Vt. Yankee), CLI-00-20, 52 NRC 151 (10/6/00).  
Power Auth'y of the State of NY (FitzPatrick & IP3), CLI-00-22, 52 NRC \_\_\_\_ (11/27/00).

### **SIGNIFICANT ISSUES CURRENTLY PENDING BEFORE THE COMMISSION**

A draft order is currently pending before the Commission that would resolve all remaining NEPA issues and also would reverse the Presiding Officer's decision (LBP-99-40) that placed on hold three-quarters of the Hydro Resources, Inc. proceeding. Another pending draft order would allow the Sequoyah Fuels decommissioning case to proceed.

### **SUMMARY OF ACTIVITIES OF THE ATOMIC SAFETY AND LICENSING BOARD PANEL**

- The Board Panel issued **13** final decisions.
- The Board Panel established **11** new proceedings, **2** of which have been terminated.
- **17** cases were pending before the Board Panel as of 12/31/00:

Atlas Corp. (MLA-4 & 5)  
Carolina Power & Light Co. (Shearon Harris) (OLA, spent fuel)  
Fansteel, Inc. (MLA)  
First Energy Operating Co. (Perry) (CivP)  
Florida Power & Light Co (Turkey Point) (License Renewal)  
GrayStar, Inc. (ML)  
Hydro Resources Inc. (ML)  
International Uranium (USA) (MLA-8)  
Maine Yankee Atomic Power Co. (Maine Yankee)(OLA, license termination plan)  
Molycorp., Inc. (MLA)  
Northeast Nuclear Energy Corp. (Millstone, Units 2 & 3) (OLA)  
Northeast Nuclear Energy Corp. (Millstone, Units 3) (OLA, spent fuel)  
Private Fuel Storage, LLC (ML)  
Sequoyah Fuels Corp. (MLA-4)  
U.S. Department of the Army (ML)  
U.S. Department of the Army (Jefferson) (MLA)  
[Big Rock Point 1 -- on indefinite hold]

If the Commissioners would like any additional information on this memorandum or on any adjudicatory proceeding, I would be happy to provide it.

Enclosures: Charts 1-5

**CHART 1**

<b>COMMISSION ADJUDICATORY DECISIONS, JANUARY - DECEMBER 2000</b>					
<b>Decision Number/Cite/Date</b>	<b>Case Name</b>	<b>Type of Proceeding</b>	<b>Decision Being Challenged</b>	<b>Relief Sought</b>	<b>Commission Action</b>
1) CLI-00-1 51 NRC 9 (2/10/00)	International Uranium (USA) Corp. (MLA-4)	Materials License Amendment -- Part 40 (adjudicated under Subpart L)	LBP-99-5 49 NRC 107 (2/9/99)	State of Utah challenges the Presiding Officer's decision to uphold the license amendment. Envirocare filed an <u>amicus curiae</u> brief supporting Utah.	The Commission affirmed LBP-99-5.
2) CLI-00-2 51 NRC 77 (3/2/00)	Private Fuel Storage (ISFSI)	ISFSI License -- Part 72 (adjudicated under Subpart G)	LBP-99-43 50 NRC 306 (11/4/99)	State of Utah challenges an interlocutory order denying Utah's request for admission of a late-filed contention.	The Commission denies discretionary interlocutory review.
3) CLI-00-3 51 NRC 82 (3/2/00)	Michel Philippon	Appeal of Denial of Senior Reactor Operator License Application -- Part 55. (adjudicated under Subpart L).	LBP-99-44 50 NRC 347 (12/9/99)	NRC Staff challenges Presiding Officer's Initial Decision reversing the denial of Mr. Philippon's application for a senior reactor operator license.	The Commission reverses the Presiding Officer's decision and remands the case for further consideration.
4) CLI-00-4 51 NRC 88 (2/11/00)	International Uranium (USA) Corp. (MLA-5, -6)	Materials License -- Part 40 (adjudicated under Subpart L)	LBP-99-11 49 NRC 153 (2/19/99) (MLA-5) and LBP-99-20 49 NRC 429 (5/21/99) (MLA-6)	Envirocare (petitioner) challenges both LBPs which dismissed its petitions to intervene.	The Commission affirms both LBPs.

<b>Decision Number/Cite/Date</b>	<b>Case Name</b>	<b>Type of Proceeding</b>	<b>Decision Being Challenged</b>	<b>Relief Sought</b>	<b>Commission Action</b>
5) CLI-00-5 51 NRC 90 (3/30/00) <b>[OGC, not OCAA]</b>	Commonwealth Edison Co. (Zion, Units 1 and 2)	Exemption Request -- Part 50 ("addressed under Subpart G)	None.	Petitioners seek to intervene in an exemption proceeding.	The Commission denies the intervention requests.
6) CLI-00-6 51 NRC 193 (5/3/00)	GPU Nuclear, Inc., Jersey Central Power & Light Co. and AmerGen Energy Co., LLC (Oyster Creek)	Reactor License Transfer -- Part 50 (adjudicated under Subpart M)	None.	Petitioner seeks intervenor status and a hearing.	The Commission denies the petition to intervene and request for hearing, and terminates the proceeding.
7) CLI-00-7 51 NRC 216 (5/3/00)	Moab Mill Reclamation Trust (Moab Mill Site)	Materials License Transfer -- Part 40 (adjudicated under Subpart M)	None.	Petitioners seek intervenor status and a hearing.	The Commission denies the petition to intervene and request for hearing, and terminates the proceeding.
8) CLI-00-8 51 NRC 227 (5/25/00)	Hydro Resources, Inc. (Albuquerque, NM)	Materials License -- Part 40 (adjudicated under Subpart L)	LBP-99-13 49 NRC 233 (3/9/99)	Intervenors challenge the Presiding Officer's partial initial decision resolving questions involving decommissioning financial assurance.	The Commission modifies LBP-99-13, imposes additional conditions on the license, and remanded the case to the Presiding Officer.
9) CLI-00-9 51 NRC 293 (6/13/00)	Niagara Mohawk Power Corp., NY State Elec. & Gas Corp., and AmerGen Energy Co., LLC (Nine Mile Point)	Reactor License Transfer -- Part 50 (adjudicated under Subpart M)	None.	Parties move to dismiss the proceeding, due to withdrawal of the license transfer application.	The Commission grants the motion to dismiss.



<b>Decision Number/Cite/Date</b>	<b>Case Name</b>	<b>Type of Proceeding</b>	<b>Decision Being Challenged</b>	<b>Relief Sought</b>	<b>Commission Action</b>
10) CLI-00-10 51 NRC 295 (6/13/00)	GrayStar, Inc.	Materials License -- Part 36 (adjudicated under Subpart L)	None.	Applicant seeks a hearing on the NRC Staff's denial of its materials license application.	The Commission refers the hearing request to the Chief Judge and directs that any hearing be conducted pursuant to Subpart L.
11) CLI-00-11 51 NRC 297 (6/20/00)	Carolina Power & Light Co. (Shearon Harris)	Reactor License Amendment -- Part 50 (adjudicated under Subpart K)	LBP-00-12 51 NRC247 (5/5/00)	Applicant challenges the Licensing Board's decision to deny an evidentiary hearing as to two issues.	The Commission declines to entertain the discretionary interlocutory appeal and dismisses the appeal as premature.
12) CLI-00-12 52 NRC 1 (7/10/00)	Hydro Resources, Inc. (Albuquerque, NM)	Materials License -- Part 40 (adjudicated under Subpart L)	LBP-99-18 49 NRC 415 (5/11/99); and LBP-99-19 49 NRC 421 (5/13/99); and LBP-99-30 50 NRC 77 (8/20/99)	Petitioners challenges three partial initial decisions.	The Commission denies the petitions for review.
13) CLI-00-13 52 NRC 23 (8/1/00)	Private Fuel Storage, LLC	ISFSI License -- Part 72 (adjudicated under Subpart G)	LBP-00-6 51 NRC 101 (3/10/00)	The Licensing Board referred its Partial Initial Decision (granting partial summary disposition) to the Commission, pursuant to 10 C.F.R. § 2.730(f).	The Commission affirms in part, reverses in part, remands the case to the Board for further proceedings, and imposes certain licensing conditions.

<b>Decision Number/Cite/Date</b>	<b>Case Name</b>	<b>Type of Proceeding</b>	<b>Decision Being Challenged</b>	<b>Relief Sought</b>	<b>Commission Action</b>
14) CLI-00-14 52 NRC 37 (8/1/00)	Northern States Power Co. (Monticello & Prairie Island)	Reactor License Transfer -- Part 50 (adjudicated under Subpart M)	None.	Petitioners seek intervenor status and a hearing.	The Commission denies the three petitions to intervene and requests for hearing, but offers petitioners the opportunity to seek reconsideration.
15) CLI-00-15 52 NRC 65 (8/21/00)	Hydro Resources, Inc. (Albuquerque, NM)	Materials License -- Part 40 (adjudicated under Subpart L)	CLI-00-8 51 NRC 227 (5/25/00)	Intervenors seek partial reconsideration of CLI-00-8.	The Commission denies reconsideration of its prior order.
16) CLI-00-16 52 NRC 68 (8/24/00) <b>[OGC, not OCAA]</b>	Transnuclear, Inc. (Export of 93.3% Enriched Uranium)	Export License -- Part 110	None.	Petitioner seeks intervenor status and a hearing.	The Commission denies the petition to intervene and request for hearing.
17) CLI-00-17 52 NRC 79 (8/30/00)	Vermont Yankee Nuclear Power Corp. and AmerGen Vermont, LLC (Vermont Yankee)	Reactor License Transfer -- Part 50 (adjudicated under Subpart M)	None.	Petitioner files motions for stay, investigation and clarification.	The Commission denies the motion for stay and investigation but grants the motion for clarification.
18) CLI-00-18 52 NRC 129 (9/18/00)	Northeast Nuclear Energy Co. and Consolidated Edison Co of NY (Millstone, Units 1, 2 and 3)	Reactor License Transfer -- Part 50 (adjudicated under Subpart M)	None.	Petitioners seek intervenor status and a hearing.	The Commission denies the intervention and hearing requests and terminates the proceeding.

<b>Decision Number/Cite/Date</b>	<b>Case Name</b>	<b>Type of Proceeding</b>	<b>Decision Being Challenged</b>	<b>Relief Sought</b>	<b>Commission Action</b>
19) CLI-00-19 52 NRC 135 (9/13/00)	Northern States Power Co. (Monticello & Prairie Island)	Reactor License Transfer -- Part 50 (adjudicated under Subpart M)	None.	Petitioners seek reconsideration of CLI-00-14, 52 NRC 37.	The Commission denies reconsideration of its prior order and terminates the proceeding.
20) CLI-00-20 52 NRC 151 (10/6/00)	Vermont Yankee Nuclear Power Corp. and AmerGen Vermont, LLC (Vermont Yankee)	Reactor License Transfer -- Part 50 (adjudicated under Subpart M)	None.	Petitioners seek intervenor status and a hearing.	The Commission denies intervention and hearing requests and terminates the proceeding.
21) CLI-00-21 52 NRC __ (11/17/00)	Private Fuel Storage, LLC	ISFSI License -- Part 72 (adjudicated under Subpart G)	LBP-00-23, 52 NRC 114 (8/31/00) and unpublished order (9/25/00)	Petitioner appeals two orders denying a late-filed petition to intervene.	The Commission denies the appeals and upholds the two Board orders.
22) CLI-00-22 52 NRC __ (11/27/00)	Power Authority of the State of New York, <u>et al.</u> (FitzPatrick & Indian Point 3)	Reactor License Transfer -- Part 50 (adjudicated under Subpart M)	None.	Petitioners seek intervenor status and a hearing.	The Commission grants intervenor status and a hearing.
23) CLI-00-23 52 NRC ____ (11/27/00)	Florida Power & Light Co. (Turkey Point, Units 3 & 4)	Reactor License Renewal -- Part 50 (adjudicated under Subpart G)	None.	None.	The Commission refers the petition to intervene and request for hearing to the Licensing Board.

<b>Decision Number/Cite/Date</b>	<b>Case Name</b>	<b>Type of Proceeding</b>	<b>Decision Being Challenged</b>	<b>Relief Sought</b>	<b>Commission Action</b>
24) CLI-00-24 52 NRC __ (12/20/00)	Private Fuel Storage, LLC	ISFSI License -- Part 72 (adjudicated under Subpart G)	None.	Clarification on the scope and timing of petitions for review under 10 C.F.R. § 2.786(b).	The Commission grants the requested clarification.
25) CLI-00-25 52 NRC __ (12/21/00)	Northeast Nuclear Energy Co. (Millstone, Unit 3)	Reactor License Amendment -- Part 50 (adjudicated under Subpart K)	LBP-00-26 52 NRC ____ (10/26/00)	Petitioners challenge an initial decision that denied a request for evidentiary hearing on two issues and terminated the proceeding. Petitioners also seek to stay the appellate phase of this proceeding and to reopen the record, based on new evidence.	The Commission remands to the Board the motion to reopen, and declares it will await responses to the stay motion.

**CHART 2**

<b>FINAL LICENSING BOARD DECISIONS,<sup>1</sup> JANUARY - DECEMBER 2000</b>						
<b>Decision Number/Cite/Date</b>	<b>Case</b>	<b>Referred to Board</b>	<b>Type of Proceeding</b>	<b>Nature of Decision</b>	<b>Appeal Taken</b>	<b>Commission Action (Date Board or Commission Action Became Final)</b>
1) LBP-00-3 51 NRC 49 (2/17/00)	General Electric Co. (Vallecitos Nuclear Center)	12/3/99	Materials License Renewal -- Part 70 (adjudicated under Subpart L)	Dismissed as inexcusably late a request for hearing.	No	No review (3/27/00) (ss)
2) LBP-00-11, 51 NRC 178 (4/27/00)	International Uranium (USA) Corp. (MLA-5)	12/10/98	Materials License Amendment -- Part 40 (adjudicated under Subpart L)	Granted intervenor's motion to withdraw, and terminated the proceeding.	No	No review (5/30/00) (cc)
3) LBP-00-13 51 NRC 284 (5/16/00)	Cabot Performance Materials (Reading, PA) (MLA)	12/15/98	Materials License Amendment -- Part 40 (adjudicated under Subpart L)	Denied two petitioners' hearing requests.	No	No review (6/15/00) (rf)

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<sup>1</sup> Includes all decisions or orders which are designated as either an "Initial Decision" or "Partial Initial Decision" on the merits of part or all of a case and are therefore subject to a petition for review; which terminate a proceeding and are therefore subject to a petition for review; or which deny party status to a person and are therefore subject to an appeal as of right.

<b>Decision Number/Cite/Date</b>	<b>Case</b>	<b>Referred to Board</b>	<b>Type of Proceeding</b>	<b>Nature of Decision</b>	<b>Appeal Taken</b>	<b>Commission Action (Date Board or Commission Action Became Final)</b>
4) LBP-00-17 51 NRC 329 (6/22/00)	Michel A. Philippon	10/26/98	Denial of Senior Reactor Operator Application -- Part 55 (adjudicated under Subpart L)	Approved settlement agreement and terminated proceeding.	No	No review (7/24/00) (ss)
5) LBP-00-18 52 NRC 9 (7/26/00)	Washington Public Power Supply System (Nuclear Project No. 1)	9/13/82 (approx. date)	Reactor License -- Part 50 (adjudicated under Subpart G)	Dismissed proceeding due to intervenor's failure to prosecute.	No	No review (9/5/00) (rf)
6) LBP-00-21 52 NRC 107 (8/14/00)	U.S. Dept. of the Army (Army Research Laboratory) (MLA)	5/11/00	Materials License -- Part 40 (adjudicated under Subpart L)	Denied request for hearing	No	No review (9/13/00) (ss)
7) LBP-00-22 52 NRC 109 (8/29/00)	Western Soil, Inc.	6/21/00	Enforcement Action (civil penalty) (adjudicated under Subpart G)	Approved settlement agreement and terminated proceeding.	No	No review (10/9/00) (ss)
8) LBP-00-23 52 NRC 114 (8/31/00), supplemented by unpublished order (9/25/00)	Private Fuel Storage, LLC (ISFSI)	9/10/97	ISFSI License -- Part 72 (adjudicated under Subpart G)	Denied late-filed petition to intervene	Yes, as to both orders	The Commission denied the appeals and upheld the Board's two orders. CLI-00-21 52 NRC ____ (11/17/00) (ss)

<b>Decision Number/Cite/Date</b>	<b>Case</b>	<b>Referred to Board</b>	<b>Type of Proceeding</b>	<b>Nature of Decision</b>	<b>Appeal Taken</b>	<b>Commission Action (Date Board or Commission Action Became Final)</b>
9) LBP-00-24 52 NRC 139 (9/26/00)	Molycorp, Inc. (Washington, PA) (MLA)	7/9/99	Materials License Amendment -- Part 40 (adjudicated under Subpart L)	Approved parties' stipulation for withdrawal of hearing requests and termination of proceeding.	No	No review (10/26/00) (rf)
(10) LBP-00-26 52 NRC 181 (10/26/00)	Northeast Nuclear Energy Co. (Millstone, Unit 3)	10/14/99	Reactor License Amendment -- Part 50 (adjudicated under Subpart K)	Denied a request for evidentiary hearing on two issues and terminated the proceeding.	Yes	The Commission remands to the Board the motion to reopen, and declares it will await responses to the stay motion. CLI-00-25 52 NRC ____ (12/21/00) (js)
11) LBP-00-29 52 NRC 241 (10/31/00)	Cabot Performance Materials (Reading, PA) (MLA)	11/30/98	Materials License Amendment -- Part 40 (adjudicated under Subpart L)	Granted motion to withdraw hearing request and terminate proceeding.	No	No review (11/30/00) (rf)
12) LBP-00-33 52 NRC ____ (12/20/00)	Moab Mill Reclamation Trust (MLA-3)	02/8/99	Materials License Amendment -- Part 40	Granted motion to withdraw hearing request and terminate proceeding.	No	Review period pending (cc)

<b>Decision Number/Cite/Date</b>	<b>Case</b>	<b>Referred to Board</b>	<b>Type of Proceeding</b>	<b>Nature of Decision</b>	<b>Appeal Taken</b>	<b>Commission Action (Date Board or Commission Action Became Final)</b>
13) LBP-00-35 52 NRC ____ (12/29/00)	Private Fuel Storage, LLC (ISFSI)	9/10/97	ISFSI License -- Part 72 (adjudicated under Subpart G)	Issued a merits ruling against petitioners' "emergency plan" contention.	Expected	Period for filing petition for review pending (ss)



**CHART 3**

<b>NEW PROCEEDINGS REFERRED TO THE LICENSING BOARD PANEL, JANUARY - DECEMBER 2000</b>				
<b>Date of Referral</b>	<b>Case Name</b>	<b>Type of Proceeding</b>	<b>Status</b>	<b>Commission Action</b>
1) 1/4/00	Molycorp, Inc. (MLA-2)	Materials License Amendment -- Subpart L.	Case pending. (ss)	--
2) 2/2/00	U.S. Department of the Army (Jefferson Proving Grounds)	Materials License Amendment -- Subpart L.	Case pending. (ss)	--
3) 5/11/00	U.S. Department of the Army (Aberdeen Proving Grounds)	Materials License Amendment -- Subpart L.	Case closed.	No <u>sua sponte</u> review (9/13/00)
4) 6/13/00	GrayStar, Inc.	Materials License -- Subpart L	Case pending. (js)	--
5) 6/21/00	Western Soil, Inc.	Enforcement -- Subpart G.	Case closed.	No <u>sua sponte</u> review (10/9/00)
6) 6/26/00	Maine Yankee Atomic Power Co. (Maine Yankee)	Reactor License Amendment (License Termination Plan) -- Subpart G.	Case pending. (rf)	--
7) 7/17/00 (date of petitioner's filing; treated by Board as a new petition)	Moab Mill Reclamation Trust (MLA-5)	Materials License Amendment -- Subpart L.	MLA-5 closed, in that it was consolidated with <u>Atlas Corp.</u> , MLA-4 (which is pending before the Licensing Board). (cc)	Given that the matter was consolidated with <u>Atlas Corp.</u> , MLA-4, the Commission had no opportunity to consider whether to conduct a <u>sua sponte</u> review.

<b>Date of Referral</b>	<b>Case Name</b>	<b>Type of Proceeding</b>	<b>Status</b>	<b>Commission Action</b>
8) 8/29/00	International Uranium (USA) Corp. (MLA-8)	Materials License Amendment -- Subpart L.	Case pending. (cc)	--
9) 9/15/00	Northeast Nuclear Energy Co. (Millstone, Unit 3)	Reactor License Amendment -- Subpart K.	Case pending. (js)	--
10) 10/24/00	First Energy Nuclear Operating Co. (Perry)	Enforcement -- Subpart G.	Case pending. (js)	--
11) 11/27/00	Florida Power & Light Co. (Turkey Point, Units 3 & 4) (MLA-3)	Reactor License Renewal -- Subpart G.	Case pending. (rf)	--

**PROCEEDINGS DECIDED AND REFERRED TO THE ATOMIC SAFETY & LICENSING BOARD -- CY-2000 CHART 4**

PERIOD	FINAL ASLBP DECISIONS	NEW PROCEEDINGS REFERRED TO THE ASLBP	SUBSTANTIVE TYPES OF NEW PROCEEDINGS							PROCEDURAL RULES GOVERNING NEW PROCEEDINGS			
			ENFORCEMENT	REACTOR LICENSE AMENDMT	REACTOR LICENSE RENEWAL	REACTOR OPERATOR	MATERIALS LICENSING MATTERS	DECOMMISSIONING	OTHER	SUBPT G	SUBPT K	SUBPT L	PART 13
JULY - DEC. 1991	6	6	4	2	0	0	0	0	0	6		0	0
1992	17	18	6	5	0	0	2	5	0	16		2	0
1993	8	11	6	3	0	0	0	1	1	10		0	1
1994	14	20	11	1	0	0	6	1	1	12		7	1
1995	13	4	2	1	0	0	1	0	0	3		1	0
1996	19	9	4	1	0	2	1	1	0	7		2	0
1997	23	13	5	1	0	1	6	0	0	7		6	0
1998	20	24	5	7	2	3	7	0	0	14		10	0
1999	21	12	1	2	0	0	9	0	0	3		9	0
2000	13	11	2	1	1	0	6	1	0	4	1	6	0

**KEY:** " **Enforcement** proceedings include those initiated by orders imposing a civil penalty, orders to modify, suspend, or revoke a license, or orders to individuals.

" **Reactor licensing** proceedings concern applications for a construction permit or operating license, amendments to permits or operating licenses, or applications to transfer a license.

" **Reactor renewal** proceedings involve applications for 20-year renewals of power reactor operating licenses.

" **Reactor operator** proceedings involve challenges to the staff's rejection of either reactor operator or senior reactor operator license applications.

" **Materials licensing** proceedings involve applications to grant an initial license, or to amend or renew a license for the possession and use of radioactive material in various applications regulated by the NRC.

" **Decommissioning** proceedings involve review and approval of decommissioning plans or related amendments for reactor or materials facilities.

" **Other** proceedings involve NRC claims made under the Program Fraud Civil Remedies Act.

" Proceedings under **Subpart G** and **Part 13** are conducted according to formal, trial-type procedures. **Subpart L** proceedings are conducted under informal procedures and involve either materials licenses or reactor operator licenses.

COMMISSION DECISIONS ON ADJUDICATORY MATTERS -- CY-2000

CHART 5

PERIOD	REQUESTS FOR RELIEF or SUA SPONTE MATTERS DECIDED	BASIS FOR COMMISSION JURISDICTION					SUBSTANTIVE TYPES OF CASES								
		APPEAL/PETITION FOR REVIEW ON THE MERITS	INTER-LOCUTORY APPEAL, AS OF RIGHT (§ 2.714a)	INTER-LOCUTORY APPEAL, DISCRETIONARY	ORIG. JURISDICTION	SUA SPONTE ACTION	Enforcem't Actions (SubPtG)	Reactor Licence Amendm'ts (SubPt G)	Reactor Licence Renewal (SubPt G)	Reactor Operator License (SubPt L)	Spent Fuel Storage License (SubPt K)	Materials License (SubPt L)	Decommissioning (SubPts L or G)	Reactor License Transfer (SubPt M)	Other
JULY -DEC. '91	6	0	2	0	2	2	0	5	0	0		0	1		0
1992	22	3	6	2	8	3	3	7	0	0		4	8		0
1993	26	3	5	3	11	4	6	13	0	0		2	4		1
19'94	16	2	4	3	6	1	6	4	0	0		1	3		2
1995	17	5	1	5	5	1	3	7	0	0		5	1		1
1996	13	9	1	0	2	1	1	2	0	1		2	5		2
1997	15	11	2	0	2	0	3	0	0	2		9	0		1
1998	25	2	7	4	10	2	1	4	5	0		10	0		5
1999	30	4	5	3	17	1	1	3	1	0		10	0	11	4
2000	25	6	1	2	16	0	0	0	1	1	2	6	0	8	7

**KEY:** " **Original jurisdiction** is exercised by the Commission over, e.g., reactor license transfer applications, export licensing applications, motions to quash investigatory subpoenas, reconsideration and some stay motions, requests for hearing in some circumstances, and motions to reopen closed adjudicatory proceedings.

" Commission **sua sponte action** is taken to provide additional guidance to the staff or the ASLBP on matters of policy or procedure in the exercise of the Commission's inherent supervisory authority over adjudications and other agency business.

" **Enforcement** proceedings include those initiated by orders imposing a civil penalty, orders to modify, suspend, or revoke a license, or orders to individuals. Decisions on motions to quash investigatory subpoenas are also included.

" **Reactor licensing** proceedings concern applications for a construction permit or operating license, amendments to permits or operating licenses, or applications to transfer a license.

" **Reactor renewal** proceedings involve applications for 20-year renewals of power reactor operating licenses.

- " **Reactor operator** proceedings involve challenges to the staff's rejection of either reactor operator or senior reactor operator license applications.
- " **Materials licensing** proceedings involve applications to grant an initial license or to amend or renew a license for the possession and use of radioactive material in various applications regulated by the NRC.
- " **Decommissioning** proceedings involve review and approval of decommissioning plans or related amendments for reactor or materials facilities.
- " **Reactor license transfer** proceedings involve requests by owners of interests in commercial nuclear reactors for authorization to sell their financial interests.
- " **Other matters** include requests for hearing or other relief in matters involving export licensing (Part 110) or the U.S. Enrichment Corp. They also include the Commission's 1998 Policy Statement on Adjudicatory Proceedings.