

Dated: December 20, 1996.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 97-69 Filed 1-2-97; 8:45 am]

BILLING CODE 4510-43-P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Issued Under the Antarctic Conservation Act of 1978, Public Law 95-541

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978.

FOR FURTHER INFORMATION CONTACT:

Nadene Kennedy or Robert S. Cunningham, Permit Office, Office of Polar Programs, National Science Foundation, 4201 Wilson Blvd., Rm 755, Arlington, VA 22230, telephone: (703) 306-1033.

SUPPLEMENTARY INFORMATION: On November 20, 1996, the National Science Foundation published a notice in the Federal Register of waste management permit applications received from Quark Expeditions for the operation of field support incidental to shipboard tour operations in Antarctica and for operation of a small research camp at Cape Shirreff, Livingston Island, Antarctica by Dr. Rennie S. Holt. The waste management permits authorize activities as described in permit applications on file at the Office of Polar Programs. These files may be viewed during normal business hours. The effective date of each waste management permit is December 27, 1996 to April 30, 2001.

Robert S. Cunningham,

Environmental Compliance Manager, Office of Polar Programs, National Science Foundation.

[FR Doc. 97-28 Filed 1-2-97; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Small Business Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Small Business Industrial Innovation (SBIR)-(61).
Date and Time: January 22-23, 1997, 8:00 a.m.-5:00 p.m.

Type of Meeting: Open.

Place: Room 1235, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Cheryl Albus, SBIR Program Coordinator, (703) 306-1390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Minutes: May be obtained from the contact person listed above.

Purpose of Committee: To provide advice and recommendations concerning research programs pertaining to the small business community.

Agenda

January 22, 1997, Room 1235

8:00 a.m. to 8:30 a.m.—Welcome and Introductions

8:30 a.m. to 12:00 noon—Review and Discussion of Programs

- SBIR Phase I
- SBIR Phase II
- STTR Phase I/II

12:00 noon to 1:30 p.m.—Lunch

1:30 p.m. to 3:30 p.m.—Discussion of Program Issues

3:30 p.m. to 3:45 p.m.—Break

3:45 p.m. to 5:00 p.m.—Further Discussions

5:00—Adjourn

January 23, 1996—Room 1235

8:00 a.m. to 10:00 a.m.—Preparation of Committee Report

10:00 a.m. to 10:30 a.m.—Break

10:30 a.m. to 12:30 p.m.—Feedback from Committee

12:30 p.m.—Adjourn

Dated: December 30, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97-27 Filed 1-2-97; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-245]

Northeast Nuclear Energy Company, Millstone Nuclear Power Station, Unit 1; Issuance of Partial Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Acting Director, Office of Nuclear Reactor Regulation, has issued a Partial Director's Decision with regard to a Petition dated August 21, 1995, and supplemented on August 28, 1995, submitted by Mr. George Galatis and We the People, Inc. (the Petitioners), requesting action under 10 CFR 2.206. The Petition pertains to Millstone Nuclear Power Station, Unit 1, operated by Northeast Nuclear Energy Company (Licensee).

The Petitioners requested that the NRC (1) suspend the license for the Millstone Unit 1 facility for a period of 60 days after the unit is brought into compliance with the license and the design basis; (2) revoke the operating license until the facility is in full compliance with the terms and

conditions of its license; (3) perform a detailed independent analysis of the offsite dose consequences of the total loss of spent fuel pool water; and (4) take enforcement action pursuant to 10 CFR 50.5 and 50.9. As bases for their requests, the Petitioners raised the following three issues: (1) The Licensee has knowingly, willingly, and flagrantly operated Millstone Unit 1 in violation of License Amendments Nos. 39 and 40; (2) License Amendments Nos. 39 and 40 for Millstone Unit 1 are based on material false statements made by the Licensee in documents submitted to the NRC; and (3) the license amendment proposed in a letter dated July 28, 1995, should be denied and the Licensee should be required to operate in full conformance with License Amendment No. 40. Issue 3 was determined to be a request for a licensing action and so was beyond the scope of 10 CFR 2.206.

The Acting Director of the Office of Nuclear Reactor Regulation has partially granted Requests 1, 2, and 3 of the Petition. The reasons for this decision are explained in the "Partial Director's Decision Pursuant to 10 CFR 2.206" (DD-96-23), the complete text of which follows this notice. With regard to Petitioner's Request 4, the NRC staff activities are not yet complete. A Final Director's Decision will be issued upon completion of NRC activities in this area.

A copy of this Partial Director's Decision will be available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document room located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and at the temporary local public document room located at the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

A copy of this Partial Director's Decision has been filed with the Secretary of the Commission for review in accordance with 10 CFR 2.206(c) of the Commission's regulations. This Decision will become the final action of the Commission (for Petitioners' requests dispositioned in this Partial Director's Decision) 25 days after the date of issuance unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 26th day of December 1996.

For the Nuclear Regulatory Commission.
Frank J. Miraglia, Jr.,
Acting Director, Office of Nuclear Reactor Regulation.

Partial Director's Decision Under 10 CFR 2.206

I. Introduction

On August 21, 1995, Mr. George Galatis and We the People, Inc. (Petitioners), filed a Petition with the Executive Director for Operations of the U.S. Nuclear Regulatory Commission (NRC) pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206). A supplement to the Petition was submitted on August 28, 1995. These two submittals will hereinafter be referred to as the "Petition."

The Petition raised three issues regarding the Millstone Nuclear Power Station, Unit 1 (Millstone Unit 1), operated by Northeast Nuclear Energy Company (NNECO or Licensee). First, Petitioners asserted that the Licensee has knowingly, willingly, and flagrantly operated Millstone Unit 1 in violation of License Amendments Nos. 39 and 40. Specifically, Petitioners assert that NNECO has offloaded more fuel assemblies into the Millstone Unit 1 spent fuel pool (SFP) during refueling outages than permitted under these license amendments. Second, Petitioners asserted that License Amendments Nos. 39 and 40 for Millstone Unit 1 are based on material false statements made by the Licensee in documents submitted to the NRC. Third, the license amendment proposed by the Licensee in a letter dated July 28, 1995, regarding offloading of the entire core of spent fuel assemblies at Millstone Unit 1 should be denied and the Licensee should be required to operate in full conformance with License Amendment No. 40.

On the basis of these assertions, the Petitioners requested that the NRC institute a proceeding under 10 CFR 2.202 to suspend the license for the Millstone Unit 1 facility for a period of 60 days after the unit is brought into compliance with the license and the design basis and to revoke the operating license for the Millstone Unit 1 facility until it is in full compliance with the terms and conditions of its license. Petitioners also requested that before reinstatement of the license, a detailed independent analysis of the offsite dose consequences of the total loss of SFP water be conducted and that the NRC take enforcement action against NNECO pursuant to 10 CFR 50.5 and 50.9. Finally, Petitioners requested that the

license amendment sought by NNECO be denied.

By letter dated October 26, 1995, the NRC informed the Petitioners that the Petition had been referred to the Office of Nuclear Reactor Regulation pursuant to 10 CFR 2.206 of the Commission's regulations for preparation of a response. The NRC also informed the Petitioners that the NRC staff would take appropriate action within a reasonable time regarding the specific concerns raised in the Petition. Additionally, the Petitioners were informed that their request with regard to issues associated with the requested license amendment (i.e., Petitioners' third issue) was not within the scope of 10 CFR 2.206 and thus was not appropriate for consideration under 10 CFR 2.206. See *Pacific Gas and Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-81-6, 13 NRC 443 (1981).¹ Therefore, this issue will not be addressed in this or any subsequent Director's Decision.

Petitioners' supplement of August 28, 1995, provided additional information. A portion of the Petitioners' supplemental letter of August 28, 1995, contained assertions relating to the third issue. Specifically, regarding Millstone Unit 3, the Petitioners asserted that there is a material false statement in a submission used to support a previous license amendment and that there is an unanalyzed condition in the Updated Final Safety Analysis Report (UFSAR) with regard to system piping not being analyzed for the full-core offload normal end-of-cycle event. Also, with regard to Seabrook Station Unit 1, Petitioners asserted that there are Technical Specification violations related to criticality analysis and gaps in Boraflex material. As the third issue is outside the scope of 10 CFR 2.206, these assertions will not be addressed in this or subsequent Director's Decisions. However, the staff is reviewing these assertions and the staff's findings will be forwarded to the Petitioners by separate correspondence.

Petitioners' supplemental letter also provided additional information on the first issue. Specifically, the Petitioners

asserted that the licensees for Millstone Units 2 and 3 and Seabrook Unit 1 also performed full-core offloads in violation of their licenses. These assertions will be addressed in this Partial Director's Decision.

Petitioners' issues 1 and 2 assert wrongdoing on the part of the Licensee. The NRC staff has not yet completed its review of possible wrongdoing on the part of the Licensee and will address this issue in a subsequent Director's Decision.

The NRC staff has, however, completed its technical assessment of core offloading practices at Millstone Units 1, 2, and 3 and Seabrook Unit 1 and these areas are discussed below. As explained below, the NRC staff has taken actions that, in part, address the Petitioners' requests.

II. Discussion

A. Requests To Revoke and Suspend the Operating License for Millstone Unit 1

The Petitioners based their requests on their issues that the Licensee has knowingly, willingly, and flagrantly operated Millstone Unit 1 in violation of License Amendments Nos. 39 and 40 and that License Amendments Nos. 39 and 40 for Millstone Unit 1 are based on material false statements. Specifically, the Petitioners stated that the Licensee conducted full-core offloads as a routine practice when its licensing basis analyses assumed one-third core offloads as the normal refueling practice. In their August 28 supplemental letter, the Petitioners asserted that the licensees for Millstone Units 2 and 3 and Seabrook Unit 1 also performed full-core offloads in violation of their licenses. The Petitioners further contend that the Licensee's actions subjected the public to an unacceptable risk. As previously noted, the wrongdoing aspects of the Licensee's actions will not be addressed in this Director's Decision. However, the technical aspects associated with core offloading practices will be addressed in the following paragraphs. For perspective, the NRC staff's conclusions are prefaced by an abbreviated history of this issue.

On October 18, 1993, the Licensee issued Licensee Event Report (LER) 93-11. The LER stated that the Licensee had made inappropriate assumptions in the analysis that was performed in support of License Amendment No. 40 for Millstone Unit 1. Specifically, the normal refueling analysis assumed a one-third core offload when Unit 1 routinely performed full-core refueling offloads. Following issuance of LER 93-11, the Licensee conducted refueling

¹ Petitioners' concerns related to the license amendment were considered by the NRC staff during the license amendment review process. A license amendment was issued by the NRC staff on November 9, 1995. A number of petitioners, including We the People, Inc., sought to intervene in the license amendment proceeding. Two petitioners, including We the People, Inc., were found to have standing to intervene and were admitted to the proceeding subject to the filing of at least one admissible contention. Based upon confirmation by counsel for these petitioners that no contention would be filed, the Atomic Safety and Licensing Board terminated the proceeding on April 15, 1996.

outage (RFO) 14 in 1994. The Licensee used a waiting period between the one-third core offload and the full-core offload during RFO 14 to ensure that the SFP bulk temperature remained within the temperature design parameters identified in LER 93-11 and the UFSAR.

On April 22, 1994, the NRC issued Inspection Report (IR) 50-245/94-01, 50-336/94-01, and 50-423/94-01. The NRC staff's review of LER 93-11 was included in this inspection report. The NRC staff found that the Licensee for Millstone Unit 1 had historically removed all of the fuel assemblies to the SFP during refueling outages. The NRC staff noted that this operating practice was not consistent with the spent fuel analysis design-basis assumptions in the UFSAR. Therefore, the NRC staff concluded that the Licensee had failed to maintain spent fuel analysis design assumptions in plant operating practices. However, because the violation was a Licensee-identified Severity Level IV violation meeting the criteria set out in Section VII.B of the NRC Enforcement Policy,² a Notice of Violation was not issued. The purpose of this policy regarding NRC discretion for citing violations is to encourage and support licensee initiatives for self-identification and correction of problems.³

From July 10 through July 14, 1995, the NRC staff conducted a safety inspection of several previously identified technical issues at Millstone Units 1, 2, and 3, including the Licensee's refueling offload practices that were reviewed previously. The results of the inspection were documented in NRC IR 50-245/95-28, 50-336/95-28, and 50-423/95-28 issued on September 1, 1995. The staff noted that during RFOs 12, 13, and 14, the Licensee performed full-core offloads at Millstone Unit 1. The staff concluded that these outages may have been performed outside the design basis of Millstone Unit 1. The staff also concluded that the Licensee did not completely and accurately describe in its submittals for License Amendments Nos. 39 and 40 the refueling activities as they were actually conducted. The Licensee was routinely performing full-core offloads during refueling outages, but the amendment submittals stated that "normal" refueling offloads were one-third core offloads. Enforcement

action associated with the staff's findings will be taken, as appropriate, upon final resolution of the Petitioners' contentions regarding possible wrongdoing.

On July 28, 1995, the Licensee requested a license amendment to use full-core offloads as the normal refueling practice at Millstone Unit 1. The Licensee proposed plant modifications to support this license amendment. The staff granted the Licensee's amendment request on November 9, 1995. The NRC's approval of the Licensee's request was based on design changes, procedure revisions, and enhanced administrative controls that did not exist during prior refueling activities. In the cover letter forwarding the granted license amendment, the staff noted that NNECO's design and operational practices for full-core offloads were more conservative than NRC recommendations and industry standards.

On November 4, 1995, the Licensee shut down Millstone Unit 1 for the planned 50-day RFO 15. The Licensee for Millstone Unit 1 has not yet restarted the plant from this shutdown.

In part, in response to the concerns the Petitioners raised, from October 24 to November 10, 1995, the NRC staff performed an inspection at Millstone Unit 1 to ensure the Licensee's planned refueling operation would be done safely and in accordance with its license, design basis, and plant procedures. The inspection was continued from March 4 to 14, 1996. The results of this Millstone Unit 1 inspection were documented in NRC IR 50-245/95-82, issued July 10, 1996. The NRC staff concluded that the Licensee could safely offload fuel for RFO 15. However, the inspection identified design control questions related to the SFP cooling system. Consequently, the staff concluded that additional Licensee efforts were needed to identify and correct deficiencies related to the Licensee's SFP cooling systems and their operation. Two areas of concern involved the Licensee's failure (1) to conduct adequate safety evaluations in accordance with 10 CFR 50.59 and (2) to take adequate design control measures in accordance with Appendix B of 10 CFR Part 50. These items were cited as apparent violations. NRC is considering enforcement action associated with the staff's findings.

At a public meeting on December 5, 1995, the NRC's Acting Inspector General stated that, based on an investigation conducted by his office, refueling activities at Millstone Unit 1

may not have been conducted consistent with the Millstone Unit 1 UFSAR.⁴

On December 13, 1995, pursuant to 10 CFR 50.54(f), the NRC required that NNECO provide the NRC with additional information to describe the actions taken to ensure that future operation of Millstone Unit 1 will be conducted in accordance with the terms and conditions of the Millstone Unit 1 operating license, the Commission's regulations, and the Millstone Unit 1 UFSAR. NRC concerns related to past refueling activities at Millstone Unit 1 were a major impetus for this request. The December 13, 1995, letter required this information to be submitted before the plant's restart.

In January 1996, the NRC placed the Millstone facility on NRC's "Watch List" as a Category 2 facility. Plants in this category have been identified as having weaknesses that warrant increased NRC attention. The NRC staff based its actions on the numerous problems identified by both the NRC and the Licensee and the repeated failure of the Licensee's corrective action programs to prevent recurrence of these problems.

On February 20, 1996, the Licensee shut down Millstone Unit 2 when both trains of the high-pressure safety injection (HPSI) system were declared inoperable due to the potential to clog the HPSI discharge throttle valves during the recirculation phase following a loss-of-coolant accident. The Licensee for Millstone Unit 2 has not yet restarted the plant from this shutdown.

On February 22, 1996, the Licensee issued "ACR 7007—Event Response Team Report," which describes the underlying causes for numerous inaccuracies contained in Millstone Unit 1's UFSAR. The 7007 Report also acknowledged that because of the nature of the identified causes, the potential existed for the presence of similar configuration management problems at the Haddam Neck Plant and Millstone Units 2 and 3. In response to the 7007 Report and on the basis the NRC's own inspections of Millstone Unit 2 indicating problems such as those described in the 7007 Report, the NRC issued a letter on March 7, 1996, to NNECO, pursuant to 10 CFR 50.54(f), requiring that the type of information requested for Millstone Unit 1 on December 13, 1995, also be provided for Millstone Unit 2. This information had to be submitted before the plant's restart. In addition, although the NRC's

² "General Statement of Policy and Procedure for NRC Enforcement Actions," at that time contained in Appendix C to 10 CFR Part 2.

³ The NRC staff, in response to Petitioners' requests, is evaluating possible wrongdoing associated with this violation and will reassess the appropriateness of exercising enforcement discretion when the NRC staff's review is complete.

⁴ The results of the investigation were documented on December 21, 1995, in Office of Inspector General Event Inquiry, "NRC Failure to Adequately Regulate—Millstone Unit 1," Case No. 95-771.

inspection history did not indicate that similar problems existed at Millstone Unit 3 and Haddam Neck Plant, the NRC issued a separate letter on March 7, 1996, pursuant to 10 CFR 50.54(f) requiring the Licensee to address the applicability of the conclusions of the 7007 Report to these plants.

Following the March 7 letters, the NRC conducted a special inspection at Millstone Unit 3 that identified design and other deficiencies similar to those reported in the 7007 Report. On March 30, 1996, the Licensee for Millstone Unit 3 shut down the plant after it was determined that containment isolation valves for the auxiliary feedwater turbine-driven pump were inoperable because the valves did not meet NRC requirements. The Licensee for Millstone Unit 3 has not yet restarted the plant from this shutdown.

In a letter dated April 4, 1996, to the Licensee pursuant to 10 CFR 50.54(f), the NRC stated that an NRC special inspection team found programmatic issues and design deficiencies at Millstone Unit 3 that were similar to those at Millstone Units 1 and 2. Thus, by this letter, the NRC required information for Millstone Unit 3 that was similar to that previously required for Millstone Units 1 and 2. This information had to be submitted before the plant's restart.

On April 8, 1996, the NRC staff held the informal public hearing that the Petitioners requested. Information gained at this hearing was considered in the preparation of this Partial Director's Decision and will be considered in the preparation of the Final Director's Decision.

On May 21, 1996, pursuant to 10 CFR 50.54(f), the NRC issued a letter to the Licensee requiring specific information regarding design and configuration deficiencies identified at each of the Millstone units, as well as a detailed description of the Licensee's plans for completion of the work required to respond to the NRC's previous letters.

By letters dated June 20 and July 2, 1996, the Licensee responded to the NRC's letter of May 21, 1996. In its letters, the Licensee informed the NRC that Millstone Unit 3 would be the first Millstone unit that the Licensee planned to restart. The Licensee also described its configuration management plan (CMP) that is intended to provide reasonable assurance that the future operation of Millstone Unit 3 will be conducted in accordance with its design basis.

In June 1996, at the direction of the Commission, the staff informed the Licensee that the Millstone facility had been designated a "Watch List"

Category 3 facility. Plants in this category have been identified as having significant weaknesses that warrant keeping the plant shut down until the licensee can demonstrate to the NRC that adequate programs have been established and implemented to ensure substantial improvement in the plant. This designation also requires the NRC staff to obtain the Commission's approval before restart of the facility.

During an August 12, 1996, meeting with the Licensee, the staff informed the Licensee that the NRC staff believed NNECO should establish an independent corrective action verification program to provide additional assurance that the Licensee has effectively corrected its configuration management problems at all Millstone units. The NRC concluded that the Licensee's CMP was not sufficient to ensure the correction of the problems noted at the Millstone units, given the Licensee's history of poor performance in ensuring complete implementation of the corrective action for both known degraded and non-conforming conditions and past violations of NRC requirements.

In response to the staff's comments in the August 12 meeting, in a letter dated August 13, 1996, the Licensee submitted its plan for conducting an independent review of the results of the Licensee's CMP regarding establishment of adequate design bases and design controls.

On August 14, 1996, the NRC issued a Confirmatory Order Establishing an Independent Corrective Action Verification Program (Effective Immediately) for Millstone Units 1, 2, and 3 (ICAVP Order). The NRC issued the order because of the Licensee's history of poor performance in ensuring complete implementation of corrective actions for both known degraded and non-conforming conditions and past violations of NRC requirements. In addition, the magnitude and scope of the design and configuration deficiencies identified at the Millstone units indicated ineffective implementation of oversight programs, including the NRC-approved quality assurance program. Thus, the NRC ordered the Licensee to obtain the services of an organization independent of the Licensee and its design contractors to conduct a multi-disciplinary review of Millstone Units 1, 2, and 3. The ICAVP is to provide independent verification that for the selected systems, the Licensee's CMP has identified and resolved existing problems, documented licensing and design bases, and established programs,

processes, and procedures for effective configuration management in the future.

Additionally, on the basis, in part, of the UFSAR compliance deficiencies found at Millstone Units 1, 2, and 3, on October 9, 1996, pursuant to 10 CFR 50.54(f), the NRC issued letters to all operating reactor licensees. The letters required licensees to submit information to provide confidence and assurance that licensees are operating and maintaining their plants within the design bases and that any design-bases deviations are reconciled in a timely manner. Specifically, the NRC staff required licensees to describe their configuration management processes, provide their rationale for concluding that the design-bases requirements have been translated into procedures, provide their rationale for concluding that the plant configuration and performance are consistent with the design-bases, describe their processes for identifying and correcting design-bases problems, and provide their assessment of the effectiveness of their current programs.

On the basis of its review and inspections of the Millstone Unit 1 SFP issues, the NRC staff has concluded that the design of the SFP and related systems at Millstone Unit 1 was adequate to protect public health and safety during full-core offloads.⁵ The staff concluded that the probability of reaching boiling conditions in the SFP when there has been a full-core offload would be low.

At Millstone Unit 1, the systems that have an SFP cooling capability (i.e., SFP cooling system (SFPSCS) and shutdown cooling system (SDCS)) are designed to receive power from two separate and independent emergency buses that can receive power from either of two onsite power supplies following a loss of normal power. The independence of the systems reduces the probability of an event capable of causing a sustained loss of SFP cooling. Assuming the SFP cooling function is lost, despite this feature, there would be a substantial period of time available in which to restore cooling before boiling occurs because of the large volume of water in the SFP and the reactor cavity during refueling outages. In the unlikely event that boiling occurs, the adverse safety impact of a boiling SFP is relatively low because the safety systems subject to adverse environmental conditions from

⁵Based on its inspection and Licensee submittals, the NRC staff has identified some instances when the Licensee prematurely performed full-core offloads at Millstone Unit 1. Although the safety significance of these offloads was low, there is a regulatory concern associated with this practice and the NRC staff is considering enforcement action with regard to it.

SFP boiling would not have a necessary function when irradiated fuel has been transferred from the reactor vessel to the SFP. The water lost because of boiling can be replaced by the condensate system, which is a seismic Category I safety-related makeup source, or from the fire protection system.

In addition to the design features previously discussed, to support its license amendment request of July 28, 1995, to conduct full-core offloads as the normal refueling practice at Millstone Unit 1, the Licensee further upgraded its SFP cooling capability by installing a cross-connect between the SDCS and the SFPCS. This modification provided a redundant train of shutdown cooling for use during full-core offloads.

The Petitioners' supplemental letter of August 28, 1995, contained three allegations regarding core offloading practices at other facilities. The Petitioners noted that the allegations were given to Mr. Galatis and that he had no firsthand knowledge of the veracity of the allegations and did not, himself, allege the conditions exist or existed. However, Mr. Galatis contended that, considering the source, the allegations would appear to have substantial merit. These allegations are addressed in the following paragraphs.

The Petitioners asserted that at Millstone Unit 2, the Licensee engaged in violations of its Technical Specifications by offloading more than one-third of the core into the SFP during normal end-of-cycle refueling outages.

On the basis of the NRC staff's review of Licensee documentation, the NRC staff found that the Licensee routinely, with justified exceptions, conducted one-third core offloads for the Millstone Unit 2 refueling outages in accordance with its licensing basis.

The Petitioners asserted that at Millstone Unit 3, the Licensee also engaged in full-core offloads during normal refueling outages in violation of the applicable license amendment.

The staff found that License Amendment No. 60, dated March 31, 1991, was the applicable license amendment for current SFP storage issues. The Licensee requested this amendment in a letter dated November 30, 1990. In this letter, the Licensee stated that, although the design basis had assumed that normal refueling outages would use partial-core offloads, for Millstone Unit 3, a full-core discharge is the actual normal refueling practice. The design-bases analyses limited the allowed number of full-core discharges to six for the 40-year life of the plant. The Licensee stated that, if it decides to continue offloading a full-core as a normal event, the design basis

would be changed before it exceeded the design-basis limit of six full-core offloads. The staff did not object to the Licensee's use of full-core offloads when License Amendment No. 60 was issued.

The staff notes that the practice at Millstone Unit 3 is inconsistent with the original design-basis assumptions regarding normal RFO offloads. As was the case with Millstone Unit 1, the Licensee was routinely performing full-core RFO offloads when the design basis assumed partial-core offloads would be the normal RFO offload. Since the plant was analyzed for at least six full-core offloads and the Licensee has not exceeded this number of full-core offloads, the safety significance of this issue is low. The staff, on a generic basis, is considering the appropriate actions for licensees that have been conducting full-core offloads as their routine refueling practice when their design-basis assumptions for normal fuel offloads were based on partial RFO offloads. The staff will take appropriate action for Millstone Unit 3 once it makes this generic determination.

The Petitioners asserted that Seabrook Unit 1, which is operated by the North Atlantic Energy Service Corporation, was also operated in violation of the terms of its operating license by discharging the full-core to the SFP during routine refueling outages.

The NRC staff found that all RFOs at Seabrook Unit 1 have involved discharge of the entire core to the SFP. Neither the Seabrook Unit 1 operating license nor the plant Technical Specifications contain a limit on the fraction of the core that may be discharged to the SFP during refueling. The UFSAR originally did not state which type of offload would be performed routinely. However, the UFSAR did contain heat load assumptions. Before the first two RFO offloads, the Licensee verified that these assumptions would not be exceeded during the RFO. Before the third refueling outage, under the provisions of 10 CFR 50.59, the UFSAR was revised to explicitly state that full-core discharge is routinely performed as part of a normal refueling. On the basis of its review, the staff found that the Licensee for Seabrook Unit 1 has conducted its core offloads in accordance with the facility's design basis.

The Petitioners requested suspension and revocation of the operating license for Millstone Unit 1. As previously discussed, the relative safety significance of the full-core offloads performed at Millstone Unit 1 is low. However, all three Millstone units have been found to have significant design-basis deficiencies. The NRC has issued

letters to NNECO for each Millstone facility requiring that certain information pertaining to actions taken to address design configuration issues be submitted to the NRC and requesting its submittal before the restart of the facilities. Additionally, the NRC has issued the ICAVP Order to the Licensee requiring an independent verification of its broad configuration management corrective actions before restarting of any Millstone units.

These actions taken by the NRC are relevant to the issues raised by the Petitioners regarding adherence by the Licensee to its licensing basis. Further, the actions taken are much broader than those requested by Petitioners in that Petitioners' requests were limited to the SFP design basis at Millstone Unit 1. Thus, the NRC's actions to date constitute a partial grant of the Petitioners' requests regarding suspension and revocation of the operating license for Millstone Unit 1.

B. Request to Perform a Detailed Independent Analysis of the Offsite Dose Consequences of the Total Loss of Spent Fuel Pool Water

The risk of accidents in spent fuel storage pools beyond the design basis was examined in WASH-1400.⁶ In this study, it was concluded that the risks associated with the spent fuel are orders of magnitude below those involving the reactor core because of the simplicity of the SFP.

This issue was reexamined in the late 1980s because (1) spent fuel was being stored onsite instead of being reprocessed and (2) some laboratory studies provided evidence of the possibility of fire propagation between assemblies stored in an air-cooled environment. The dose estimate portions of the study were performed by the Brookhaven National Laboratory. The results of this reexamination were published in NUREG-1353.⁷ The NRC staff concluded that SFP accidents beyond the design basis did not warrant additional regulatory action because of the large inherent safety margins in the design and construction of the SFP.

Additionally, because of SFP safety questions that were first reported to the NRC staff in November 1992 by two engineers who formerly worked under contract for the Pennsylvania Power & Light Company, the NRC again revisited

⁶U.S. Nuclear Regulatory Commission (USNRC), "Reactor Safety Study—An Assessment of Accident Risk in U.S. Commercial Nuclear Power Plants," WASH-1400, October 1975.

⁷U.S. Nuclear Regulatory Commission (USNRC), "Regulatory Analysis for the Resolution of Generic Issue 82, 'Beyond Design Basis Accidents in Spent Fuel Pools,'" NUREG-1353, April 1989.

this issue. The principal safety concern the staff reviewed involved the potential for a sustained loss of SFP cooling and the potential for a substantial loss of spent fuel coolant inventory that could expose irradiated fuel.⁸

The NRC staff completed its work under the task action plan in July 1996. The staff forwarded the results of its review to the Commission on July 26, 1996.⁹ In the report, the staff concluded that existing SFP structures, systems, and components provide adequate protection for public health and safety. Protection is provided by several layers of defense involving accident prevention (e.g., quality controls on design, construction, and operation), accident mitigation (e.g., multiple cooling systems and multiple makeup water paths), radiation protection, and emergency preparedness. The staff has reviewed and approved design features addressing each of these areas for spent fuel storage for each operating reactor. In addition, the limited risk analyses available for spent fuel storage suggest that current design features and operational constraints cause issues related to SFP storage to be a small fraction of the overall risk associated with an operating light-water reactor.

The NRC's actions to date in evaluating SFP accidents beyond the design basis constitute a partial grant of the Petitioners' request to perform analyses of such accidents.

C. Request for Enforcement Action Pursuant to 10 CFR 50.5 and 50.9

The NRC staff is still considering the Petitioners' assertions that the Licensee knowingly, willfully, and flagrantly operated Millstone Unit 1 in violation of License Amendments Nos. 39 and 40 and submitted material false statements to obtain License Amendments Nos. 39 and 40, which will be addressed in a subsequent Director's Decision.

III. Conclusion

The staff has completed its technical review of the full-core offload issue at Millstone Units 1, 2, and 3, and Seabrook Unit 1. The staff has concluded that Millstone Unit 1 could safely offload a full core. The staff also found that Millstone Unit 3 and Seabrook Unit 1 could safely offload full cores. Additionally, the staff found that Millstone Unit 2 was not routinely performing full-core offloads as asserted by the Petitioners. However, the staff followup of spent fuel pool issues raised

by the Petitioners led, in part, to the identification of a broad spectrum of configuration management concerns that must be corrected before the restart of any Millstone unit.

The three Millstone units are currently shut down and the NRC staff has issued a Confirmatory Order establishing an ICAVP for each Millstone unit to ensure that the plant's physical and functional characteristics are in conformance with its licensing and design basis. The ICAVP shall be performed and completed for each unit, to the satisfaction of the NRC, before restart of any unit. To this extent, Petitioners' requests for suspension and revocation of the Millstone Unit 1 operating license are granted. In addition, the staff has evaluated spent fuel accidents beyond the design bases and, to this extent, Petitioners' request to perform analyses of such accidents is granted.

A copy of this Partial Director's Decision will be placed in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document room located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and at the temporary local public document room located at the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

A copy of this Partial Director's Decision will also be filed with the Secretary of the Commission for review in accordance with 10 CFR 2.206(c) of the Commission's regulations. This Partial Decision will become the final action of the Commission (for Petitioners' requests 1, 2, and 3) 25 days after its issuance, unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 26th day of December 1996.

For the Nuclear Regulatory Commission.
Frank J. Miraglia, Jr.,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97-64 Filed 1-2-97; 8:45 am]

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POSTAL RATE COMMISSION

[Docket No. A97-8]

Pleasant Prairie, WI 53158 (Anthony J. Dzian, et al., Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. § 404(b)(5)

Issued December 27, 1996.

Before Commissioners: Edward J. Gleiman, Chairman; H. Edward Quick, Jr., Vice-Chairman; George W. Haley; W.H. "Trey" LeBlanc III

Docket Number: A97-8.

Name of Affected Post Office: Pleasant Prairie, Wisconsin 53158.

Name(s) of Petitioner(s): Anthony J. Dzian, et al.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: December 23, 1996.

Categories of Issues Apparently Raised:

1. Effect on the community [39 U.S.C. § 404(b)(2)(A)].
2. Effect on postal services [39 U.S.C. § 404(b)(2)(C)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. § 404(b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by January 7, 1997.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.
Margaret P. Crenshaw,
Secretary.

Appendix

December 23, 1996

⁸ "Task Action Plan for Spent Fuel Storage Pool Safety."

⁹ Memorandum to the Commission from J. Taylor, "Resolution of Spent Fuel Storage Pool Action Plan Issues," dated July 26, 1996.