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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

March 6, 1998

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USNRC

'98 MAR -6 P2:56

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

MEMORANDUM TO: B. Paul Cotter, Jr.  
Chief Administrative Judge  
Atomic Safety and Licensing Board Panel

FROM: *John C. Hoyle*  
John C. Hoyle, Secretary

SUBJECT: REQUESTS FOR A HEARING ON THE YANKEE  
NUCLEAR POWER STATION LICENSE TERMINATION  
PLAN

Attached are requests for hearing submitted by the New England Coalition on Nuclear Pollution dated February 24, 1998, the Citizens Awareness Network dated February 26, 1998, the Nuclear Information and Resource Service dated February 27, 1998 and the Franklin Regional Council of Governments dated February 27, 1998. The requests were submitted in response to a proposed finding of the Nuclear Regulatory Commission (NRC) staff that an amendment request of the Yankee Atomic Electric Company involves no significant hazards consideration. The amendment considered by the staff is the License Termination Plan for the Yankee Nuclear Power Station (Docket Number 50-029), submitted for consideration on May 15, 1997. The finding of the staff is published in the Federal Register at 63 Fed. Reg. 4308, 4328. (January 28, 1998) (copy attached).

The requests for hearing are being referred to you for appropriate action in accordance with 10 C.F.R. Sec. 2.772(j).

Attachments: as stated

cc: Commission Legal Assistants  
OGC  
CAA  
OPA  
OCA  
EDO  
NRR  
James L. Perkins  
Jonathan M. Block  
Paul Gunter  
Adam Laipson

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ALABAMA STATE BAR ASSOCIATION  
MEMBERSHIP & REGISTRATION STAFF  
OFFICE OF THE CLERK  
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3/11/98

# New England Coalition on Nuclear Pollution

PO Box 545 Brattleboro, Vermont 05302 (802) 257-0336 necnp@vermont.net

USNRC

February 24, 1998

Secretary of the Commission  
Attention: Rulemakings and Adjudications Staff  
U.S. NRC  
Washington DC 20555-0001

'98 MAR -3 A8:50

OFFICE OF SECRETARY  
BLUE PRINTS  
ADJUDICATIONS

Re: NRC Notice, 63 Fed. Reg. 4308-4330 (January 28, 1998) Objection to use of No Significant Hazards Consideration to approve Yankee Atomic Electric Company's License Termination Plan for the Yankee Nuclear Power Station, Rowe, Massachusetts, and request for a 10 C.F.R. 2, subpart G hearing on the plan.

Hello:

We write to object to the process and substance of your planned approval of Yankee Atomic Electric Company's License Termination Plan and to request that you reconsider the process you have formulated and substitute a hearing under 10 C.F.R. 2, subpart G.

In preview let me note that even though the New England Coalition on Nuclear Pollution was not in existence at the time of the licensing of Yankee Rowe, we have participated in licensing hearings, both CP and OL, of several plants. In addition, several of our Trustees have assisted in or been full parties to these licensing hearings for nuclear plants in other parts of the country. In all those proceedings, any consideration of financial, environmental, and health and safety issues of the decommissioning process was routinely denied as outside the scope of the proceeding. They were never ruled "insignificant." The overarching actions of the NRC and its Staff in their general approach to decommissioning and in this particular matter fly directly in the face of good faith regulation.

- A) The following are particular concerns NECNP has with the process of NRC's treatment of the matter of Yankee Atomic's license termination plan.
- i. Notice was given in the Federal Register on January 5th for a meeting January 13th. This is not adequate notice.
  - ii. By NRC's own announcement at the beginning of the public meeting, the final plan, including NRC's questions to the licensee and the answers by the licensee, was not made available to the public prior to the meeting.
  - iii. Despite a request from the public that the NRC hold another meeting to discuss the plan after the relevant material was made available to the public and after 30 day notice had been provided, NRC noticed its intention to amend the license to approve the plan without a hearing by making a finding of No Significant Hazards Consideration. This action put the amendment on a "fast track" and may allow only for a "post amendment" hearing. This should not be done as there is no "emergency." There are environmental considerations of site cleanup involved, and such considerations deserve (under both minimum due process and the National Environmental Policy Act) a "hard look" at the proposed plan.
  - iv. During the meeting, over public objections, the moderator (who happens to be a close associate of Yankee Atomic's public relations person) cut off questions under the claim that there would not be sufficient time if questioning were permitted to continue. This was done despite prior announcement that the building would need to be cleared by 11:00 p.m. By eliminating additional questions to NRC and YAEC and deciding not to answer those asked, the facilitator managed to conclude the meeting at 10:00 and leave many questions unanswered. The NRC staff failed to object to this unnecessary change in the format of the meeting. The NRC staff also failed to take this into account and schedule additional meeting with proper notice. Finally, the NRC staff also failed to answer questions posed by the audience and filed in writing to NRC.

U.S. NUCLEAR REGULATORY COMMISSION  
RULEMAKINGS & ADJUDICATION STAFF  
OFFICE OF THE SECRETARY  
OF THE COMMISSION

Date: \_\_\_\_\_

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B) The following are serious concerns NECNP has with the substance of the decisions and actions proposed by the Staff of the NRC.

- i. YAEC has relied upon old environmental reports as the basis for certifying that activities are bounded by environmental studies and within the GEIS on decommissioning. These studies were not specifically geared to evaluate the issues involved in decommissioning. Moreover, the GEIS is out of date – it is nearly a decade old – and many of its predictions are incorrect. The standard method for calculating transportation doses has changed. The financial projections for costs of decommissioning are off by more than an order of magnitude. The NRC should be conducting appropriate review of the materials YAEC relied upon in stating that its plan falls within existing environmental limits, rather than allowing YAEC to do the environmental decision-making.
- ii. YAEC proposes to eliminate the fuel pool and go to cask storage. The casks to be used have not yet been certified. Eliminating the fuel pool is an unreviewed safety issue in case of cask leaking or cask explosion. YAEC's proposal to "over-pack" casks in case of leaking raises another unreviewed safety question as the proposed correction has never been attempted. Moreover, all of these proposals are not permitted under a part 50 license and 10 CFR 50.59. They should require that the licensee use a part 72 license process. This is particularly evident when one considers that other sites utilizing cask storage continue to have operating reactors with fuel pools available and regular staff. YAEC will be eliminating all of the back-up safety systems which would provide the possibility of transferring the fuel into a pool if necessary. Given the unreviewed safety questions, there should be a full adjudicatory hearing on the licensee's proposals instead of the short shrift of No Significant Hazards Consideration.
- iii. Insufficient attention has been given to final site clean-up issues. For example, no serious consideration has been given to the levels and types of pollution which will occur when dammed sediments are allowed to drain into the Deerfield River. Moreover, the current license termination plan gives grossly incorrect estimates of the amount of radiation to be left at the site. Specifically, the licensee claims that there will be <15 mr/yr. This is not based upon a 24 hour per day resident at the site. Using the licensee's own estimates for level of radioactivity above background on site, such an individual would be exposed to more than 87 mr/year. This is totally unacceptable. Massachusetts Department of Public Health Radiation Protection Standards do not permit more than 10 mr/yr above background. EPA standards do not permit more than 15 mr/year. Even NRC standards do not permit more than 25 mr/yr. It is unconscionable for the NRC to suggest that No Significant Hazards Consideration approval is appropriate for Yankee Rowe given the licensee's proposal to leave the site with a level of contamination resulting in exposures over three times higher than its own limit.

C) NECNP requests the following actions be taken to resolve the difficulties identified above.

- i. To remedy the lack of due process, the NRC should be sure that all material relevant to decision-making on the License Termination Plan is available in the Local Public Document Room for 30 days prior to another public meeting. This meeting should follow a full 30 days notice following publication in the Federal Register.
- ii. The NRC should not use a No Significant Hazards Consideration to amend YAEC's license to permit the License Termination Plan.
- iii. There should be a formal, adjudicatory process, such as a Title 10, Part 2, Subpart G license amendment hearing, prior to NRC Staff approval and before activities under the plan are permitted to take place. The hearing should be held in a location convenient to interested local people, perhaps Greenfield or Shelburne Falls, Massachusetts.
- iv. By this letter and on behalf of members living in the vicinity of the Yankee Nuclear Power Station, NECNP requests that the relief requested above be granted and that a formal license amendment hearing be completed on the Yankee Nuclear Power Station license termination plan before any activities proposed under the plan are permitted to take place.

For NECNP,

  
James L. Perkins, President of the Board

DOCKETED  
USNRC

Jonathan M. Block  
ATTORNEY

AT '98 FEB 27 P4:02

LAW

OFFICE OF ATTORNEY  
GENERAL  
ADJUTANT GENERAL  
Main Street  
P.O. Box 566  
Putney, Vermont 05346-0566  
(802) 387-2646(vox)  
(802) 387-2667 (fax)

February 26, 1998

Chairman Shirley A. Jackson, Commissioners,  
Secretary of the Commission, EDO,  
Chief Rules and Directives Branch  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555

RE: Notice of Proposed No significant Hazards Consideration, 63 Federal Register 4308-4330 (January 28, 1998), Yankee Nuclear Power Station License Termination Plan (50-29), Comments in Opposition to No Significant Hazards Consideration Approval of License Termination Plan and Request for 10 C.F.R. Part 2, Subpart G Hearing on the Plan.

Dear Chairman Jackson, Commissioners, Mr. Secretary, Mr. Meyer, and other Required Recipients of this Letter:

In addition to attempting to follow the formal requirement for objecting to the proposed No Significant Hazards Consideration approval referenced above and requesting a hearing on the proposed license termination plan (which requirements, we contend, are not plainly stated for the general public in the referenced Federal Register notice), we are writing to you to be sure you are aware of the conduct of your staff in the above referenced matter.

For the following reasons, we believe that No Significant Hazards Consideration approval of the Yankee Nuclear Power Station License Termination Plan is inappropriate, and ask that you offer a public hearing on approval of the plan:

**I. Lack of Minimum Due Process To Public In This Matter.**

Your agency has failed to provide the minimum due process to the public in terms of adequate notice and a meaningful opportunity to be heard in this matter.

U.S. NUCLEAR REGULATORY COMMISSION  
RULEMAKING & ADJUDICATIONS STAFF  
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OF THE COMMISSION

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First, the notice of public meeting to discuss the plan appeared less than 30 days prior to the scheduled meeting. Specifically, the Federal Register Notice of the meeting was published on January 5th announcing the January 13th meeting. 63 Fed. Reg. 275 (January 5, 1998). This is in no way adequate formal notice of a public meeting. People who may be interested in the subject of the meeting require 30 days notice, reasonably calculated to inform them of the time, place, manner, and content of the meeting.

Second, at the meeting, Morton Fairtile, NRC project manager for Yankee, stated that the NRC's questions to Yankee Atomic Electric Company [YAEC] concerning the plan, YAEC's responses to those questions, and YAEC's plan had not yet been made available to the public. Transcript of Public Meeting at Shelbourne [sic], MA (Yankee Nuclear Power Station License Termination Plan) at 58-59 (January 13, 1998) [Transcript]. Thus, the public had been invited on extremely short notice to participate in a discussion of a plan that had not been made public at the time of the meeting. This, too (in case there is any doubt), in no way comports with the minimum requirements of due process which your agency owes to the people of the United States under the United States Constitution (and most generally accepted standards of meeting protocol in civilized countries).

Third, during the meeting the moderator stated that the building had to be vacated by 11:00 p.m. for cleaning. Transcript at 3. The moderator stated that he would try to keep the meeting to 10 :00 p.m. despite better part of an hour available. Given this limited time, Mr. Fairtile began the NRC's portion of the meeting with the introduction of every NRC staff person present, despite the fact that only a few participated in the meeting. See Transcript at 29-35. Perusal of the Transcript of this meeting will show that questioning was arbitrarily cut off for the sake of limiting the meeting time until 10 p.m. This meant that questions had to be posed as unanswered comments. Among such comments, Mr. Paul Blanch, an energy consultant working for Northeast Utilities, raised some serious questions about the apparent illegalities and inadequacies of the plan, including apparent violations of 10 C.F.R. Parts 20, 50 and 72. Transcript at 72-76. Your staff did nothing when questions were cut off and has, to our knowledge, made no attempt to answer these questions.

Fourth, despite statements that questions and comments would be answered subsequently (in what one might hope would be a timely fashion), to our knowledge there have been no answers provided to any of the oral or written questions and comments docketed at the meeting after questioning was cut off.



Because of these flagrant violations of the minimum standards of due process owed to members of the public under the United States Constitution, No Significant Hazards Consideration is not appropriate for the Yankee Nuclear Power Station License Termination Plan.

## **II. No Significant Hazards Consideration Is Not Appropriate For The Yankee Nuclear Power Station License Termination Plan Due to Violations of NRC Regulations, Federal Law, And Previously Unanalyzed Safety Questions**

Approval of the plan should not be granted under No Significant Hazards Consideration and without a public hearing because there are potentially significant hazards involved in YAEC's proposal for activities to be conducted under the License Termination Plan and the radiological condition in which YAEC intends to leave the site. In pertinent part, the License Termination Plan (including incorporated documentation) does not take into account the following:

1. Accident evaluation involving fuel storage in the fuel pool. Evaluations in the License Termination Plan (and FSAR) do not consider any credible accidents other than cask drop into the fuel pool. Although this may be the most likely catastrophic accident, there are plenty of other more likely but less serious (although potentially lethal) accidents not considered in the plan. For example, the plan (and incorporated documents) does not take into account the following potential accidents:
  - (a) Loss of water in the fuel pool resulting in shielding loss. This accident condition, if there is a draw-down to within 6" of the fuel, would be lethal in seconds to any person at the fuel pool railing, and could also be significantly damaging to persons at the site boundary;
  - (b) Loss of cooling of the fuel could also result in unplanned exposures and releases with potential consequences at the site boundary;
  - (c) Loss of control of water chemistry in the pool could cause degradation of the fuel cladding and result in unplanned exposures with serious consequences;
  - (d) Sabotage;
  - (e) Accidents related to lower levels of surveillance of the site, including the fuel pool.

2. Accident evaluations related to storage of the fuel in casks. Again, there is no evaluation in the Plan or incorporated documents to account for potential and likely accidents related to cask storage including: (1) leaking, (2) explosions (such as that involving a 300 pound cask lid during welding at Point Beach, *see* PNO-III-96-033A), (3) sabotage, (4) low levels of surveillance.
3. Proposed casks are still in the experimental stage. None have been approved. In fact, they are still in the design stage.
4. The License Termination Plan does not describe how YAEC intends to deal with leaking casks.
5. The License Termination Plan does not describe how YAEC intends to deal with unloading and loading casks that have deteriorated.
6. The License Termination Plan does not describe how YAEC intends to deal with deteriorated fuel.
7. The License Termination Plan does not describe how YAEC intends to deal with the movement of fuel over the pool. It does not adequately describe the load capacity of the cranes, safety features and measures, or a cask drop accident and mitigation of same under the current conditions at the facility (i.e. lower safety staff, lessened surveillance, lower levels of security, etc.).
8. The License Termination Plan fails to account for (discuss or conduct any Environmental Report on) the environmental consequences of the construction of the Independent Spent Fuel Storage Installations (ISFSI) which includes building a road and dealing with an extreme grade. Potential consequential environmental degradation includes erosion, leachates, leaking fuel. These would have an impact upon the Deerfield River ecosystem. Such environmental assessment is required under 10 C.F.R. Parts 50 and 51.
9. There is limited staff to monitor the ISFSIs. No fuel pool has ever been removed before under such circumstances and with such a result. All forms of Monitored Retrievable Storage (MRS) are at operating reactors where there are trained staff with great cumulative experience in dealing with fuel-related problems and many staff trained in emergency cleanup and safety.
10. There is no Environmental Impact Study on the potential effects of canisters leaking radioactive contaminants into the Deerfield River and the River Valley.

It will take time to get the proposed (but only vaguely described) "over-pack" into place around a leaking canister. How long will leaks go on before the "over-pack"? There is no assessment of the potential hazards.

11. No Significant Hazards Consideration is not appropriate under the NRC regulations or the Atomic Energy Act, U.S.C. 2239, for work that is in the design stage. This is the stage YAEC's proposals are at this point.
12. In terms of removal of the spent fuel pool, there are no specifics in the License Termination Plan concerning clean up of the pool area, ion exchange pit, and contamination in and around the ion exchange pit. No efforts have been made to determine if there is a plume of contaminated liquid waste under the fuel pool and ion exchange pit, nor has there been any attempt to account for earlier data YAEC acquired which showed higher levels of radioactivity in deeper test borings around the site. This would seem to be indicative of the presence of some kind of plume under the site, and YAEC should be investigating this likely (and dangerous) potentiality.
13. There is no discussion of how over-packed canisters may be transported to a permanent spent fuel repository. Such over-packed canisters will be extremely large and heavy, and YAEC needs to account for the safe eventual relocation of such canisters.
14. There is no certified "over-pack" under Part 72. YAEC should not be allowed to say they intend to utilize a method still in design stage.
15. The form of cask storage YAEC intends to use has not been certified under Part 72, and it is still in the design stage. YAEC should not be allowed to say they intend to use a fuel storage container that has not been certified under Part 72.
16. YAEC has not taken account of the actual radiation level above background that will remain at the site upon license termination. In particular, according to the numbers presented in the Plan, YAEC will be leaving the site with a radiation level above background of 10 micro-Rads/hour. This means over 87 millirem/year above background to any person living on the site. YAEC has not accounted for the discrepancy between this figure and the maximum exposure standards of the NRC (25 millirem/yr), EPA (15 millirem/yr), Massachusetts Department of Public Health (10 millirem/yr).

It is inappropriate under NRC, EPA, and Massachusetts Department of Public Health regulations on radiation exposure to the public for the NRC to approve the YAEC License Termination Plan. All the more reason why No Significant Hazards Consideration approval is not appropriate. Moreover, the Plan plainly violates the letter and spirit of Part 72 by allowing the licensee to build and operate an ISFSI under a Part 50 license. The purpose of the Part 72 license was to assure public health and safety by requiring licensees to provide the level of security, emergency planning, and other features ordinarily part of an operating Part 50 licensed facility.

The absence of such features at an ISFSI site as is proposed for Yankee Rowe means that public health and safety are being compromised. Why should this take place? Allowing a spent-fuel storage site under a Part 50 license provides a \$283,000 per year incentive to YAEC (and any other licensee) who does not elect to use the legally required Part 72 license process (and pay the annual license fee). Your agency needs a public hearing process to review such contradictions rather than placing approval on the fast track railroad of No Significant Hazards Consideration. Part 50 was implemented under the notion that NRC inspection and enforcement would ensure compliance with the terms of the license. Part 72 was implemented with the realization that reduced or non-existent NRC inspection and enforcement had to be accounted for in making independent fuel storage safe--hence, the system of regulations mandated by Congress to govern "stand alone" or independent facilities. Permanently closed nuclear power stations do not receive the level of NRC oversight necessary to assure public safety for Independent Spent Fuel Storage Installation unless the NRC enforces the need for licensees to go to Part 72 licenses.

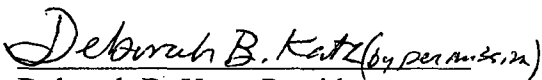
Because the Yankee License Termination Plan includes going outside current NRC regulations without required environmental impact studies, it is in violation of the National Environmental Policy Act, as well as 10 C.F.R. Part 51. Because the plan includes going outside current regulations without making specific applications for license amendments pursuant to NRC regulations, its is in violation of those regulations and the Atomic Energy Act, 42 U.S.C. 2239. Finally, should the NRC choose to approve the plan under No Significant Hazards Consideration in the circumstances described above, you will be in violation of the Administrative Procedure Act. In particular, by retroactively expanding the basis of your licensee's license without rulemaking or hearing as required under the Atomic Energy Act, and by permitting a major federal action that will affect the quality of the environment to go forward without the requisite environmental consideration under the National Environmental Policy Act, you will be acting arbitrarily, capriciously, and not otherwise in accordance with law in violation of the Administrative Procedure Act.

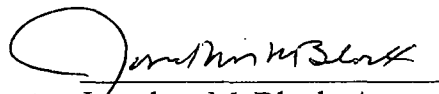
### III. Requested Relief.

On behalf of Citizens Awareness Network, Inc., of Rowe, Massachusetts, many of whose members live and own property (which may be damaged by any accident at the Yankee Nuclear Power Station) well within the 10 mile evacuation zone surrounding Yankee, and downstream on the Deerfield River from the Yankee site (and any fuel storage facility on that site), we request that the NRC:

1. Reject approval of the Yankee License Termination Plan under No Significant Hazards Consideration;
2. Provide another public meeting in the vicinity of the Yankee Rowe facility. Be sure to provide 30 days notice of the meeting after you have placed in the public document room the written answers to all of the comments and questions raised at the last meeting. Be sure to ascertain that the public meeting will take place after the public has had a full 30 days to review the current plan and related documents.
3. Offer a 10 C.F.R. Part 2, Subpart G hearing in the vicinity of the Yankee Rowe facility on approval of the License Termination Plan prior to approval of the plan. Invite Citizens Awareness Network, Inc., and other similarly situated persons to participate in the public hearing process upon adequate (i.e., 30 days notice) in the Federal Register, plainly stating your rejection of No Significant Hazards Consideration, and plainly stating the terms and conditions upon which the hearing will be held. Be sure to hold the hearing in a place reasonably calculated to permit maximum citizen participation.

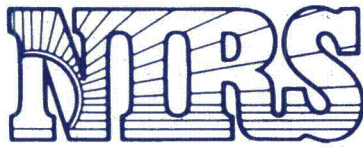
Sincerely,

  
Deborah B. Katz, President  
Citizens Awareness Network, Inc.

  
Jonathan M. Block, Attorney  
Citizens Awareness Network, Inc.

I, Jonathan M. Block, Attorney for Citizens Awareness Network, certify under penalty of perjury by signing above that on this 26th day of February, 1998, I caused to be placed into the mail, pre-paid postage, copies of the above document to the following:

Office of the Secretary, U.S. NRC;  
Chief, Rules and Directives Branch, U.S. NRC;  
Office of General Counsel, U.S. NRC;  
Attorney for the Licensee



## Nuclear Information and Resource Service

1424 16th St. NW, Suite 404, Washington, DC 20036; 202-328-0002; fax: 202-462-2183; e-mail: nirsnet@igc.apc.org web: www.nirs.org

February 27, 1998

Office of the Secretary  
ATT: Mr. E. Julian, Esq./Rulemakings and Adjudications Staff  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555  
DELIVERED BY HAND TO: Public Document Room, 2120 L Street, N.W.,  
Washington,  
D.C.



RE: Comments, responding to NRC Notice in 63 Fed. Reg. 4308-4330 (January 28, 1998), opposing granting No Significant Hazards Consideration to Yankee Nuclear Power Station License Termination Plan (50-29), and requesting that a 10 C.F.R. Part 2, Subpart G public hearing be held convenient to the public living near the reactor site.

Dear Mr. Julian,

Please make service of the above referenced document upon the Secretary.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Paul Gunter'.

Paul Gunter, Reactor Watchdog Project  
Nuclear Information and Resource Service

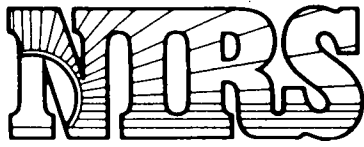
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# Nuclear Information and Resource Service

1424 16th St. NW, Suite 404, Washington, DC 20036; 202-328-0002; fax: 202-462-2183; e-mail: nirsnet@igc.apc.org web: www.nirs.org

February 27, 1998

Office of the Secretary

ATT: Mr. E. Julian, Esq./Rulemakings and Adjudications Staff

United States Nuclear Regulatory Commission

Washington, D.C. 20555

DELIVERED BY HAND TO: Public Document Room, 2120 L Street, N.W.,  
Washington,  
D.C.

RE: Comments, responding to NRC Notice in 63 Fed. Reg. 4308-4330 (January 28, 1998), opposing granting No Significant Hazards Consideration to Yankee Nuclear Power Station License Termination Plan (50-29), and requesting that a 10 C.F.R. Part 2, Subpart G public hearing be held convenient to the public living near the reactor site.

Dear Secretary Hoyle (for the Commission):

By this letter I request that the Commission hold a hearing in the above referenced matter rather than making a No Significant Hazards Consideration.

I contend, for myself and NIRS members living in close proximity to the Yankee Nuclear Power Station, that the public process which the NRC staff has conducted thus far is sorely lacking in very basic consideration of due process of law as guaranteed under the United States Constitution. Specifically, the NRC staff provided far less than 30 days notice of the public meeting to discuss the Yankee Nuclear Power Station License Termination Plan (LTP). In fact, only 8 days notice was provided. See NRC Notice, 63 Fed. Reg. 275 (January 5, 1998) (announcing the January 13, 1998, meeting in Buckland, Massachusetts). I was unable to make the necessary travel arrangements in time to attend that meeting. In lieu of personal attendance, I forwarded the attached comments to be placed in the record of the meeting by Mr. Frederick Katz. Although my comments have now been neatly bound into the text of the "Official" transcript of the public meeting, I have never received any written acknowledgment from the NRC of my comments. I have received no copy of the transcript, but was told about my comments being bound into it.

Further, and most annoying, the NRC staff has not sent me response to my comments. A copy of my comments is attached hereto as Exhibit 'A' and I hereby incorporate them into this comment and request for a 10 CFR Part 2, Subpart G hearing on the LTP.

I was also informed that at the hearing the NRC cut off public questioning. This meant that many questions went (and remain) unanswered. Not only my own comments and those of NIRS members, but questions and comments from Northeast Utilities consultant Paul Blanch were not answered.

Mr. Blanch had concerns similar to my own. In particular, he asked about the levels of background radiation on the site, given that the site release plan indicated 10 micro-Rad/hour. This is a number way over the NRC's 25 millirem/yr limit from all sources. It is also far in excess of the EPA's 15 millirem/year standard. It is almost an order of magnitude over the Massachusetts Department of Public Health's 10 millirem/year standard. How can the NRC give No Significant Hazards Consideration to an LTP that contains such a totally out of line site release background radiation level? Thus, I ask that the Commission disapprove the Yankee Nuclear Power Station LTP, and direct that a public hearing be held in the vicinity of the Yankee facility.

I am also deeply concerned that the NRC staff (and Commission, it would seem) are poised to accord No significant Hazards Consideration license amendment approval to the LTP when it proposes that Yankee build and place its spent fuel in an ISFSI under a 10 CFR Part 50 operating license. This suggestion is outrageous for several reasons.

Not surprisingly, Yankee will be given a windfall benefit if the Commission approves the LTP. Specifically, Yankee will avoid the \$283,000 per year Part 72 licensing fee. This reward will be given, along with mitigation of many of the very circumstances which lead Congress to pass the Nuclear Waste Policy Act: less surveillance of the site, greater danger of sabotage, lower level of inspections by NRC and Yankee, everything done on an uncertified/experimental basis (uncertified and untested casks, uncertified and untested casks method of dealing with leaking casks, uncertified and untested methods of moving degraded fuel, etc.). Plainly, when one looks at the dangers which Part 72 was intended to avert, the use of 10 CFR 50.59 as the basis of execution and oversight is totally inappropriate. Congress did not intend that licensees would be allowed to develop experimental ways of dealing with spent nuclear fuel, including storage in areas without adequate safety and surveillance. Yankee's LTP offers a hazardous, untested proposal for dealing with spent fuel. Not only should the NRC require Yankee to submit to a full public hearing process on the LTP, it should direct the staff to conduct a Part 72 licensing all of Yankee's high-level waste storage schemes.

Again, I raise all of the issues raised in my attached comments.

For the reasons stated therein and above, the NRC should not grant approval of Yankee's LTP on a No Significant Hazards Consideration basis. There are unanalyzed hazards. A hearing should be held under 10 CFR Part 2, subpart G, and is hereby requested on behalf of NIRS and its members whose lives and property are at risk through yet another experiment at the Yankee Nuclear Power Station in Rowe, Massachusetts.

Sincerely,



Paul Gunter, Reactor Watchdog Project  
Nuclear Information and Resource Service

Enc./Comments submitted to January 13, 1998, Public Meeting  
in Buckland, Massachusetts, attached hereto as Exhibit 'A'

cc: Attorney for Licensee;  
Office of General Counsel, U.S.NRC

## **Nuclear Information and Resource Service**

1424 16th Street NW Suite 404

Washington, DC 20036

Tel: 202/328-0002 Fax: 202-462-2183

Website: <http://www.nirs.org>

### **Statement of Paul Gunter**

**Director of the Reactor Watchdog Project**

**January 13, 1998**

**Before the Nuclear Regulatory Commission**

**Public Meeting on the Termination of the Yankee Rowe License**

**Mohawk Valley Regional High School Auditorium**

**Buckland, Massachusetts**

I would like to thank the Nuclear Regulatory Commission for this opportunity to address the license termination of the Yankee Rowe nuclear generating station. However, my opening remark must be framed as a criticism of the NRC's overall effort to circumvent meaningful public involvement in the decommissioning process. My organization recognizes that to date, the NRC has actively subverted the public interest in discovering the true and potential impact of a major decommissioning operation at Yankee Rowe by thwarting the public's right to a hearing with discovery process and the cross examination of the licensee as required under the National Environmental Protection Act, the Administrative Procedures Act, and the Atomic Energy Act.

It is our view that the NRC originally abandoned its decommissioning regulations and then rewrote its law to accommodate the economic interests of Yankee Atomic Electric Company by expediting the decommissioning process. This view is bolstered by the remarks of Judge Posner in the Springfield Federal Court and the First Circuit Appellate Court decision in CAN vs NRC.

It is now our concern that at the behest of Yankee Atomic Electric Company, the NRC is seeking to expedite the removal of the Yankee Rowe nuclear power station irradiated fuel pool through dry cask storage of the reactor's high level radioactive waste and the demolishing of the irradiated fuel pool and building. There are several issues that NIRS seeks to address before Yankee proceeds with this plan.

Central to our concerns is that the NRC has bankrupted its credibility for effective regulatory oversight of the cask certification program.

Long standing problems with two cask designers and vendors have demonstrated that the federal regulator has failed to adequately oversee Quality Assurance and Quality Control in the certification and implementation of the Sierra Nuclear Corporation VSC-24 (vertical storage modules) dry cask system and the VECTRA Technologies Inc. NUHOMS-52 B (horizontal storage modules) dry cask system. NIRS believes that the NRC failed its regulatory and oversight

function as a result of attempting to accommodate the nuclear industry's interests and schedules in such areas as retaining operational flexibility (i.e. the ability to have full core offload.)

Specifically;

On August 21, 1991, the NRC exempted and permitted Sierra Nuclear Corporation to build eight VSC-24 Dry Shielded Casks (concrete casks) and 3 metal storage baskets for the Consumer Power's Palisades nuclear generating station before design approval was issued. The exemption was granted by NRC stating that approval was given "at vendor's own risk".

By April, 1992, NRC inspections identified quality control/quality assurance problems with Sierra Nuclear VSC-24 construction involving inadequate design control and control of subcontractors and by May 28, 1992 issued a Notice of Violation. The following day, May 29, 1992, Michigan's Consumers Power directed Sierra Nuclear to cease all construction of cask being built under the exemption process at Palisades.

In December 1992, the Michigan Office of Attorney General requested that NRC hold a public hearing on the Palisades dry cask storage system which the agency then denied.

On May 7, 1993 the NRC certified the VSC-24 design for five nuclear power stations without requiring site specific studies, an Environmental Impact Statement, and barring a public hearing process at any of the reactor locations.

On May 11, 1993, Consumers Power loaded its first VSC-24 cask. That same month, a consulting firm to the NRC, The Center for Nuclear Waste Regulatory Analyses of San Antonio Texas, commented on dry cask storage policy stating "dry environment has the potential of producing such problems as further fuel cladding oxidation, cladding stressing, and creep deformation as a result of internal rod pressure."

In February, 1994, an NRC soil expert visited the Palisades dry cask storage site which is located in a "high risk erosion site" just 150 yards from the shore of Lake Michigan. Dr. Ross Landsman found that the lack of site specific studies under the NRC licensing policy was seriously flawed and could lead to "catastrophic consequences."

In June, 1994, an NRC inspection report finds continued QA/QC problems at Sierra Nuclear and determined that Sierra Nuclear has "a lack of management commitment."

On August 2, 1994, a Consumers Power initiated radiograph finds weld flaws on a VSC-24 cask already loaded with highly irradiated fuel. A subsequent meeting between the licensee and the NRC on August 25, 1994 at NRC Headquarters introduced problems with unloading faulty casks where introducing 400 degree F. fuel to 100 degree F. fuel pool water will result in a radioactive steam flash and thermal shock to irradiated fuel in the dry cask. This issue introduces problems with the unloading of faulty casks.

By March, 1995, Consumers Power identified further multiple cracking in the closure welds on the VSC-24 shield lids. This will not be acknowledged until an NRC inspection March 17 -27, 1997 identifies cracking at a VSC-24 cask at Wisconsin Electric Power Company's Point Beach reactor.

On May 28, 1996, while loading irradiated fuel into a VSC-24 cask at Wisconsin's Point Beach nuclear generating station, borated water from the fuel pool electro-chemically interacted with the zinc liner of the VSC-24 design generating hydrogen gas. The hydrogen gas detonated when an arc welded used to seal the cask lid ignited the gas lifting the 3 ton shield lid into the air setting it upright on top of the cask. The accident initiated an NRC Office of the Inspector General investigation into NRC staff criteria for safety evaluations and the vendor certification and review process.

In June, 1996, Consumers Power canceled its preparations to unload the faulty cask at Palisades because of the issue of hot radioactive fuel coming in contact with cooling water in the fuel will create a steam flash and simultaneously generate more explosive hydrogen gas.

On July 5, 1996 NRC ordered a halt to any further loading of casks at reactors as a result of the galvanic reaction and hydrogen detonation at Point Beach.

On October 18, 1996, the citizen's group Dont Waste Michigan submitted a petition to the NRC requesting an independent review of the VSC-24 design through the National Association of Corrosion Engineers. Dr. Rudolph Hausler submits a report in support of the petition identifying that flaws in both the utilities' and the NRC safety evaluations of the VSC-24 design and construction, including the lack of experimental verification for temperature calculations and heat transfer assessments, all of which have potential adverse impact on the public health and safety. The NRC rejected the petition as lacking sufficient merit to warrant emergency enforcement action. Dr. Hausler states that NRC is "stunningly ignorant on certain aspects the chemistry of metals."

In an NRC inspection report dated March 17-21, 1996, cracking is observed in the closure welds on inner and outer shields of fuel loaded VSC-24 casks at Palisades, Point Beach, and Arkansas Nuclear One units. The inspection identifies the root cause of cracking to involve unauthorized weld repairs, the cask design, the welding environment and procedures.

To date, NRC and the industry have not resolved the issue of what to do with faulty casks where cracking of closure welds is observed on the loaded casks at these three nuclear power stations. The NRC and the industry remain in a quandary without a strategy to unload irradiated fuel from failing casks. There are currently 19 VSC-24 casks loaded at reactors. Sierra Nuclear and the licensees remain under NRC Confirmatory Action Letters with regard to any further loading of the VSC-24 design.

Nuclear Information and Resource Service asserts that these problems and similar QA/QC problems with the VECTRA Technologies Inc. NUHOMs-52B dry cask system can be attributed to the lack of NRC aggressive oversight and enforcement of its regulations and a rigorous

certification process. Essentially, NRC has deferred its regulatory responsibilities to the industry that it is supposed to be regulating. NIRS cautions the NRC, the licensee and the affected communities to not allow these identified problems or similar problems to be repeated at the Yankee Rowe site.

Therefore, NIRS submits:

- 1) The NRC must be required to obtain an independent and reputable third party review (such as the National Association of Corrosion Engineers) of all dry cask design systems as part of its certification process.
- 2) The current NRC licensing process for dry cask storage must be resented to require site specific reviews at all potential sites with a complete Environmental Impact Statement and that such process will be opened to the right to a public hearing with full adjudicatory review.
- 3) Yankee Atomic Electric Company must retain full liability for its nuclear waste generated at Yankee Rowe and that both a wet storage and hot-cell capability be provided for the full retrievability of irradiated fuel in the event that a duly certified dry cask develop problems.



**FRANKLIN REGIONAL  
COUNCIL OF  
GOVERNMENTS**

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Community Health and Education • Data Management • Engineering  
Municipal Assistance • Planning and Development • Purchasing

February 27, 1998

Office of the Secretary  
ATT: Mr. E. Julian, Esq./Rulemakings and Adjudications Staff  
United States Nuclear Regulatory Commission  
Washington, DC 20555  
DELIVERED BY HAND TO: Public Document Room, 2120 L Street, N.W.,  
Washington, DC

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

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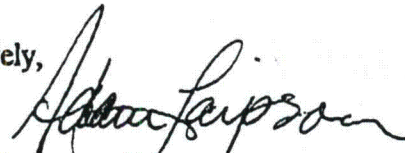
DOCKETED  
USNRC

RE: Comments, responding to NRC Notice in 63 Fed. Reg. 4308-4330 (January 28, 1998), opposing granting No Significant Hazards Consideration to Yankee Nuclear Power Station License Termination Plan Docket No. (50-29), and requesting that a 10 CFR Part 2, Subpart G public hearing be held convenient to the public living near the reactor site.

Dear Mr. Julian,

Please make service of the above referenced document upon the Secretary.

Sincerely,



Adam Laipson, Chairman  
Franklin Regional Planning Board

Enc/. Comments/Hearing Request

U.S. NUCLEAR REGULATORY COMMISSION  
RULEMAKINGS & ADJUDICATIONS STAFF  
OFFICE OF THE SECRETARY  
OF THE COMMISSION

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February 27, 1998

Office of the Secretary

Attn.: Mr. E. Julian, Esq./Rulemakings and Adjudication Staff  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Delivered by Hand to:

Public Document Room, 2120 L Street, NW  
Washington, DC

Office of the General Counsel

U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

RE: NRC Notice, 63 Fed. Reg. 4308-4330 (January 28, 1998) Objection to Use of No  
Significant Hazards Consideration to Approve Yankee Atomic Electric Company's  
License Termination Plan (LTP) for the Yankee Nuclear Power Station, Rowe,  
Massachusetts (Docket No. 50-29) and Request for a 10 CFR Part 2, Subpart G Hearing  
on the LTP.

To Whom It May Concern:

This letter is to serve as our communication to the Nuclear Regulatory Commission

(NRC) relative to our continuing concerns as to several aspects of the License

Termination Plan (LTP) filed by Yankee Atomic Electric Company (YAEC) and as a  
request that the NRC conduct a 10 CFR Part 2, Subpart G hearing on the LTP.

The Franklin Regional Planning Board (FRPB) is a broad-based coalition comprised of a representative from the Selectboard and Planning Board of each of the twenty-six (26) towns of Franklin County, eighteen (18) at large members living within the County, and the members of the Franklin Regional Council of Governments Executive Committee. FRPB members and staff of our Planning Department have been reviewing, within their own capabilities and limitations, the LTP since May of 1997. Our Board sent a series of questions to YAEC in December of 1997. In response, YAEC provided some partial information in early January of 1998, but most issues remain open.

We are a relatively small county of approximately 70,000 residents with limited resources to conduct a proper review of the LTP. The LTP is a complex plan incorporating much specialized technology. We do not have a battery of experts at our disposal, nor can we afford the legal services of attorneys who can best represent us through this process. Our goal is simple. We wish to have the LTP reviewed and studied by independent experts. We would have YAEC address any concerns identified, in a fashion that would leave us satisfied that the Yankee Nuclear Power Station in Rowe, Massachusetts will be closed, dismantled, and all its components disposed of or stored in a proper manner that assures the County's populace, whose lives and property are directly at risk from decisions made in this process, will be completely safe from radiation and hazardous materials used in the operation of the facility. As we believe this

is the first LTP application for a commercial nuclear plant in America (and therefore a precedent-setting application), a full and complete public review process should be instituted. Therefore, FRPB respectfully requests that the NRC conduct a public hearing.

A number of issues have been raised by FRPB which were outlined and submitted at the public meeting held at Mohawk Regional High School in Buckland, Massachusetts on January 13, 1998. Concerns have materialized since that meeting, and, we believe, others will follow from a careful, independent examination of the data, protocols and practices of YAEC in their proposed LTP. These issues are of grave concern and merit closer study and analysis than the NRC and YAEC have conducted. We believe potentially serious hazards exist which involve a significant reduction in the margin of safety to the present and future populace of Franklin County and environs. These issues include but are not limited to:

- **Decommissioning activities employ methodologies and techniques that are experimental, untested, and/or unproven.** For example, the segmentation techniques that were used for cutting the high activity components were apparently untested and proved to be somewhat unsatisfactory, resulting in recommendations for modification of the technique. Similarly, decommissioning of the spent fuel pool

and ion exchange pit will require the use of methods and techniques that have not previously been employed.

- **The plan rests upon significant safety hazards that are not addressed.**

Specifically, the questions of how and where the spent fuel will be stored, and questions of how the selected storage method will be implemented, monitored, and eventually decommissioned must be answered. YAEC has proposed elimination of the spent fuel pool in favor of a dry cask storage system, using technology that has not yet even been developed or reviewed. Decommissioning and elimination of the spent fuel pool, and the associated activity including how the spent fuel will be moved into the dry cask system, then to be managed and monitored over many years, surely raises many important safety issues that deserve to be discussed, planned, and scrutinized before the decommissioning and license termination is granted a final stamp of approval. Yet, this entire question has been set outside the scope of the procedure before us. There is no assurance of any future opportunity to examine the issue. A full discussion about the considerations, methods and procedures related to on-site spent fuel storage and removal must be addressed within the scope of this process. The on-site storage of high level and Greater Than Class C waste must be subject to public review and comment.

- **Methods that have been used to survey and monitor the site for contamination do not incorporate appropriate random sampling and data collection methods.** Instead, they rely on computer modeling and anecdotal evidence. This has resulted in a decision not to sample or monitor a large area that is owned and controlled by YAEC but lies outside a small “impact area.” Failure to randomly sample creates a risk that contamination may exist in areas which have not been predicted by computer, perhaps due to vagaries in weather patterns, local hydrology, animal transport, or even illegal activity. Contamination from unpredictable sources will not be discovered using the current sampling strategy. Random sampling must also be used on the entire property to determine what, if any, mitigation is required, before any portion of the site is released.
- **Contamination of groundwater and methodologies for sampling remain an issue.** The selection of monitoring well locations appears to be based on the locations of known or suspected contamination sites and does not appear to factor in the possibility that local geology may include groundwater divides, impervious layers, or bedrock close to the surface. YAEC and the NRC need to conduct thorough investigations into possible groundwater contamination. They cannot assume a uniform substrate through which water moves predictably. Their analysis must also include discussion and investigation of the possible influences of surficial geology and bedrock features. In particular, the migration of radionuclides from



acknowledged sub-floor contamination has not been sufficiently studied and considered in the context of local hydrology and surficial geology.

- **Despite several rounds of questions and requests for specific data, neither YAEC nor the NRC has addressed the impacts of radionuclide releases on fish due to effluent and accidental releases to the Deerfield River. No data has been provided to address the species, age, general health, or whether the fish was native or stocked -- all factors that must be correlated together in order to determine true radionuclide levels in the sediment and food chain. There is insufficient information about the specific testing techniques which YAEC used. This is a critical issue. Contaminated fish may be consumed by humans. They may introduce significant contamination into the entire food chain when other animals feed on contaminated fish. Further, the bioaccumulation of radionuclides in fish is indicative of the presence of these materials throughout the river system, at a level which may be more significant than revealed by the tests. Based on YAEC's and the NRC's insufficient investigation of the matter, it is premature to conclude that there is no safety hazard resulting from fish contamination.**
- **We question the adequacy of YAEC's sampling and testing of sediment in the Deerfield River, in the Sherman Pond Reservoir, and near the outfall pipes. The sediment behind Number Five Dam in Monroe Bridge was recently removed.**

Were these sediments adequately tested before they were removed, and how and where were they disposed of? The next impoundment downstream, the Fife Brook Dam, is a bottom release operation. How far downstream were sediment tests conducted? The nature of the Fife Brook operation will allow the discharge of radionuclides. They could collect as far downstream as the Number Four Dam in Buckland. YAEC has not provided specific information about the depth or frequency of the sampling, sampling methodology, the random sampling methods used, and laboratory testing and handling of materials.

- **Final site clean-up questions remain.** Issues regarding YAEC's formulations of effective yearly exposure dose equivalents need to be resolved. Specifically, YAEC's use of plot averages and assumptions about lifestyle and future land use introduce confusion about the actual levels of radiation proposed to remain on the site, which apparently may meet the required levels as an area-wide average, but may in fact remain quite high in certain spots. Methodology for calculating and proving the final exposure rate of 15 mr/year is very confusing. The assumptions related to unit conversions of picocuries to millirems, the daily time of exposure (is it 24 hours or only 8?), and similar issues must be satisfactorily explained. The final site survey criteria and plan, including the methodology and calculations, must be reviewed and affirmed by a competent, truly independent third party. Finally, in addition to

laboratory testing work provided by the licensee and the NRC, the final site survey testing work must also be independently verified by a third party.

There is a fundamental problem with a number of YAEC's assertions, conclusions and the data used to substantiate the LTP. Much of the material is a product of earlier testing and documentation for previous filings. Therefore, YAEC did not specifically produce it for decommissioning. Furthermore, the GEIS on decommissioning is nearly ten years old. Many facets of the GEIS are now incorrect. The NRC and YAEC should rely on fresh data for the entire LTP process. Independent analysis of the materials filed by YAEC should be conducted. YAEC's in-house-produced data, and conclusions of YAEC's hired experts, are self-serving, and require thorough independent third party review.

Another area of concern relative to the review of the LTP process is what may be viewed as the lack of a strong response by the NRC. People believe that the NRC is engaged in regulatory activity to assure our safety, health, and welfare. Additionally, a number of procedural aspects of the LTP review have been lacking. The operations of the Public Documents Room have been insufficient at best. For example, YAEC's revisions of the LTP, used as one basis of the public meeting of January 13 in Buckland, Massachusetts, were not filed for public review prior to the meeting. There were a

number of formal questions asked of YAEC by the NRC, but these questions and YAEC's responses were not made public until a later date. The official legal notice of the meeting was published in the Federal Register on January 5, 1998, eight days before the public meeting. None of this is adequate to guarantee respect for and confidence in this licensing process.

Most public meeting notices run for thirty days, where all documents are available for public review for that entire period of time. Although the NRC was asked in advance to provide sufficient time for all public comments (the FRPB originally asked for two nights), the comment period itself only lasted one and one-half hours. Shortly after this public meeting, the NRC posted in the Federal Register a notice to amend YAEC's license to approve the LTP without a hearing, based on a finding of No Significant Hazards. This seems incongruous with so many outstanding questions and a lack of complete data and impartial review. The sum total of this public review and input process falls far short of normal due process expectations.

Therefore, the members of the FRPB and the citizens it represents, whose lives and property are at risk by approving the LTP as presently filed, requests the following relief:

1) That the NRC initially provide the FRPB with a sum of one hundred thousand dollars (\$100,000.00) forthwith in order for the FRPB to: a) hire experts to review YAEC's LTP, to make appropriate recommendations regarding final content and implementation; b) retain legal assistance to represent properly the citizenry of Franklin County and to assure that the Yankee Nuclear Power Station decommissioning will be conducted in a manner to protect their health, safety and welfare; and c) hire expert witnesses, as needed, for the adjudicatory process;

2) Grant a full, formal adjudicatory hearing under 10 CFR Part 2, Subpart G, to be held in Franklin County. Further, the NRC should not approve the LTP as presently filed without such a hearing process. The NRC should reject YAEC's application under its No Significant Hazards Consideration determination. YAEC should not conduct any LTP activity until every aspect of the Plan is formally approved and findings are issued, subsequent to the hearing. FRPB reserves the right to amend its filings in response to the LTP and a right to address new issues uncovered in the independent review process within the adjudicatory hearing; and

3) From this point forward, to overcome even the appearance of the lack of due process, all materials and documents relative to the LTP shall be available for a period of thirty days before any meeting or hearing, and notice of any meeting or hearing shall be advertised for a minimum of thirty days in the Federal Register and local media.

I certify, under the penalty of perjury, that on this day, service of the above document was made by US Postal Service First Class Mail to Office of General Counsel and Thomas G. Dignan, Jr., Esq.

If I can be of further assistance, please feel free to contact me directly. My home telephone number is 978-544-2643. Thank you very much for your serious consideration of our filing.

Very truly yours,

A handwritten signature in black ink, appearing to read "Adam Laipson", with a long, sweeping horizontal line extending to the right.

Adam Laipson, Chair  
Franklin Regional  
Planning Board



the working papers at the Website, select "Final Rule on Radiological Criteria for License Termination," then select "Lic Term Document Library," then select "Regulatory Guide," and then select "Module C.2: Regulatory Position—Final Status Survey," or "Module C.1: Regulatory Position—Dose Modeling."

#### Meeting Agenda

- 9:00 Welcome and introduction
- 9:05 Presentation describing issues considered in developing the draft working paper
- 10:30 Break
- 10:45 Public comments on the draft working paper. Attendees will be asked for questions and comments on each section of the draft working paper.
- 12:00 Lunch
- 1:30 Continuation of public comments.
- 5:00 Adjourn

#### Submitting Written Comments

Comments may be posted electronically on the NRC Technical Conference Forum Website mentioned above. Comments submitted electronically can also be viewed at that Website. Comments may also be mailed to the Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

**FOR FURTHER INFORMATION:** For information or questions on meeting arrangements, contact Nina Barnett, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-415-6187, fax 301-415-5385, E-mail: NMB@NRC.GOV. For technical information or questions, contact Stephen A. McGuire, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-415-6204; fax: 301-415-5385; E-mail: SAM2@NRC.GOV.

Dated at Rockville, Maryland this 22nd day of January, 1998.

For the Nuclear Regulatory Commission.

**Cheryl Trotter,**

*Chief, Radiation Protection and Health Effects Branch, Division of Regulatory Applications, RES.*

[FR Doc. 98-2017 Filed 1-27-98; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

#### I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 5, 1998, through January 15, 1998. The last biweekly notice was published on January 14, 1998 (63 FR 2271).

#### Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period.

However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By February 27, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or

petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the attorney for the licensee.

Not timely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

**Carolina Power & Light Company,  
Docket No. 50-261, H.B. Robinson  
Steam Electric Plant, Unit No. 2,  
Darlington County, South Carolina**

*Date of amendment request:*  
December 17, 1997.

*Description of amendment request:*

The requested amendment revises Technical Specification Section 5.6.5, "Core Operating Limits Report (COLR)." The revisions add reference to an additional approved methodology for correlating departure from nucleate boiling (DNB) ratios. The added methodology is the Siemens Power Corporation Topical Report, EMF-92-153(P)(A), "HTP: Departure from Nucleate Boiling Correlation for High Thermal Performance Fuel."

*Basis for proposed no significant hazards consideration determination:*  
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change adds a methodology that has been previously reviewed and approved by the NRC for determining the DNB safety limit. The new methodology utilizes the High Thermal Performance (HTP) correlation developed by the fuel manufacturer, Siemens Power Corporation. The HTP correlation is empirically based and results in a DNB safety limit that corresponds to a 95% probability at a 95% confidence level that DNB will not occur. The DNB ratio safety limit is a conservative design value which is used as a basis for setting core safety limits. The DNB correlation is not assumed to be an initiator of analyzed events or transients, and use of the new DNB correlation will not alter assumptions relative to mitigation of accident or transient events. The proposed change has been confirmed to ensure that no previously evaluated accident or transient results in a DNB less than the DNB correlation safety limit. The HTP DNB correlation assures with high confidence that, for accidents and transients that do not result in a DNBR less than the HTP DNBR safety limit, departure from nucleate boiling and subsequent fuel overheating will not occur in HTP fuel.

Therefore, the proposed change does not involve any increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any physical alteration of plant systems, structures, or components or changes in parameters governing normal plant operation. The proposed change

consideration, which is presented below:

The Davis-Besse Nuclear Power Station (DBNPS) has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit Number 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because the probability of previously analyzed accidents is not affected by the criteria in the core alteration definition (Technical Specification (TS) 1.12). Nor do these changes, the proposed relocation of the refueling communications TS 3/4.9.5 and Bases to the DBNPS Updated Safety Analysis Report (USAR) Technical Requirements Manual (TRM), or the proposed addition of new TS 3.0.6 and Bases regarding return to service of inoperable equipment, affect any accident initiator, or assumption made in any safety analysis. The proposed changes are administrative in nature and are consistent with NUREG-1430, Revision 1, "Standard Technical Specifications, Babcock and Wilcox Plants," dated April 1995, as modified by a pending NUREG-1430 change approved by the NRC, Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler Number 165.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed changes do not affect accident conditions or assumptions used in evaluating the radiological consequences of an accident. The proposed changes do not significantly alter the source term, containment isolation, or allowable radiological releases.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not change the way the plant is operated. No new or different types of failures or accident initiators are introduced by the proposed changes.

3. Not involve a significant reduction in a margin of safety because no inputs into the calculation of any Technical Specification Safety Limit, Limiting Safety System Settings, Technical Specification Limiting Condition for Operation, or other previously defined margins for any structure, system, or component important to safety are being affected by the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

**Local Public Document Room location:** University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH.

**Attorney for licensee:** Jack Newman, Al Gutterman, Morgan, Lewis & Brockius, 1800 M Street, NW., Washington, DC 20036-5869.

**NRC Acting Project Director:** Richard P. Savio.

**Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts**

**Date of amendment request:** December 18, 1997.

**Description of amendment request:** By letter dated May 15, 1997, the licensee submitted a License Termination Plan. The NRC previously published a notice dated August 14, 1997, in the **Federal Register** (62 FR 43559) advising of receipt of the Plan. The proposed request is for a license amendment approving the Plan for the Yankee Nuclear Power Station.

**Basis for proposed no significant hazards consideration determination:** As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. Accident analyses are included in the approved Decommissioning Plan and incorporated into the FSAR. All decommissioning and fuel storage activities described in the License Termination Plan are consistent with those in the approved Decommissioning Plan: No systems, structures, or components that could initiate or be required to mitigate the consequences of an accident are affected by the proposed change in any way not previously evaluated in the approved Decommissioning Plan. Therefore, the proposed change is administrative in nature and does not involve an increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. Accident analyses are included in the approved Decommissioning Plan and are incorporated into the FSAR. All

decommissioning and fuel storage activities described in the License Termination Plan are consistent with those in the approved Decommissioning Plan. The proposed change does not affect plant systems, structures, or components in any way not previously evaluated in the approved Decommissioning Plan, and no new or different failure modes will be created. Therefore, the proposed change is administrative in nature and does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety. Approval of the License Termination Plan by license amendment is administrative in nature since all decommissioning and fuel storage activities described in the License Termination Plan are consistent with those in the approved Decommissioning Plan. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

**Local Public Document Room location:** Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

**Attorney for licensee:** Thomas Dignan, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624.

**NRC Project Director:** Seymour H. Weiss.

#### **Notice of Issuance of Amendments to Facility Operating Licenses**

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in connection with these actions was