

The Nuclear Regulatory Commission has announced opportunities for the public to request hearings on two aspects of Holtec International's effort to return the Palisades Nuclear Plant to an operational status.

The first opportunity covers license amendment requests from Holtec, filed between December 2023 and May 2024, that would restore aspects of the Palisades license to those required for an operating reactor. The filing deadline for this hearing opportunity is Oct. 7.

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Petition Executive Summary

This petition, filed under 10 CFR 2.309, seeks a public hearing regarding the proposed license amendments for the Palisades Nuclear Plant, specifically concerning Holtec International's plans to return the plant to operational status after decommissioning.

The petitioners, who own homes and reside either full or part time within the Palisades Emergency Planning Zone (EPZ), are directly impacted by any potential nuclear incidents at the plant. Given the proximity and associated risks—including radiological releases, contamination, and evacuation—the petitioners have a vested interest in ensuring that the highest standards of safety and regulatory oversight are maintained.

Key Concerns within the Scope of the License Amendment Reviews and Beyond:

Subjectivity in Regulatory Framework Application: The petition challenges the reliance on the "existing regulatory framework" as described in SECY-20-0110. The petitioners assert that this framework,

used by both NRC staff and Holtec, introduces unacceptable levels of subjectivity into the regulatory process, particularly in the selection of rules applicable to a plant transitioning from decommissioning back to full operations.

The introduction of such subjectivity is seen as a direct threat to the NRC's mission of ensuring the safe use of radioactive materials. Objective regulations, based on clear and measurable standards, are essential to maintain uniformity and fairness in the regulatory process, thereby reducing ambiguity and minimizing the risk of misinterpretation.

Holtec's Use of Implicit NRC Approval:

The petition raises concerns regarding Holtec's reliance on "implicit approval" from the NRC to proceed with system restoration activities at the Palisades Nuclear Plant. Holtec has stated in its submittals, that the NRC's lack of formal response to their submission "Regulatory Path to Reauthorize Power Operations", ML23072A404, constitutes approval, allowing them to move forward without explicit NRC approval of proposed

regulations. This practice undermines regulatory transparency and safety, as NRC regulations must require formal, documented approval.

To preserve the integrity of the regulatory framework, the petitioners request the need for formal approval from the NRC General Counsel to ensure that NRC staff interpretations align with the NRC's mission of protecting public health and safety.

Final Safety Analysis Report (FSAR) Updates: Holtec's plan to update the FSAR, now referred to as the Defueled Safety Analysis Report (DSAR), using the 10 CFR 50.59 process, is criticized for relying on a licensing basis that no longer applies. The petitioners argue that the proposed updates fail to meet the rigorous standards necessary for a safe transition from decommissioning to full operations.

Quality Assurance Program Description (QAPD) Updates: The petitioners raise concerns about Holtec's intention to update the QAPD without prior NRC approval, warning that this approach could undermine the quality assurance necessary during the restoration period. The lack of an NRC-approved QAPD for the restoration period is seen as a safety risk.

Inadequate NRC Oversight and Ripeness of Issues: The petition expresses alarm over the NRC's apparent acceptance of Holtec's actions under the "existing regulatory framework" without sufficient oversight or public visibility.

Specifically, it highlights that issues related to the License Amendment Requests (LARs) are not yet ripe for final adjudication due to reliance on unvetted regulatory changes. This concern is underscored by the concurrent review of licensing actions and the implementation of the site period of system restoration actions, which necessitates, first, a fully developed and mature regulatory framework.

The petitioners argue that allowing licensees to choose from among existing regulations introduces a level of subjectivity into the regulatory process, potentially leading to inconsistent application of safety standards. This flexibility might result in Holtec prioritizing less stringent rules that do not fully address the unique risks of their operations, thereby compromising the objectivity and consistency vital for ensuring the safety and security of nuclear activities.

Requested Actions:

- 1. Formal Approval by NRC General Counsel:** The petitioners request that any interpretations of the "existing regulatory framework" used in the licensing actions be formally approved by the NRC General Counsel to ensure they are consistent with the NRC's mandate to protect public health and safety. This additional layer of review is necessary to mitigate concerns that the flexibility in applying the existing regulatory framework could undermine safety and security standards.
- 2. Public Disclosure and Transparency:** The petitioners call for transparency in the decision-making process, including public access to the regulations and interpretations selected by the NRC staff and approved by NRC General Counsel.
- 3. Suspension of Holtec's Actions:** The petitioners request the NRC to suspend Holtec's ongoing system restoration activities and license amendment reviews until the appropriate regulations are evaluated, approved, and aligned with NRC-approved design and quality assurance standards.

4. **Holtec Proceeding without clear NRC approval to disqualify NRC Use of Holtec Inspections for regulatory use in approving operations;** According to publicly available documents, the NRC staff has not formally responded to Holtec's proposed regulations, which are the subject of this petition. Despite the absence of implicit** approval, Holtec is proceeding with system restoration activities at the Palisades site based implicit approval, because NRC has not responded. This presents an immediate harm to the petitioners, who have filed §2.206 petitions requesting the NRC staff to take action to halt these activities. The petitioners urge the adjudicatory authority to consider the urgency of conducting a concurrent review.

Holtec's reliance on regulations not yet approved by the NRC and its assumed current implicit approvals undermines the integrity of the licensing process. Holtec actions requiring quality inspections may not be recoverable, in that the ability to gain access to the inspection conditions cannot be replicated after the fact.

Requested Action: Therefore, any work completed under these conditions should not be considered valid evidence for the NRC's decision to reauthorize Holtec's operating license and must be excluded from the record.

These actions are deemed necessary to safeguard the public and ensure that the Palisades Nuclear Plant's operations adhere to the highest safety standards, consistent with the NRC's mission of protecting people and the environment.

**** Basis: "Implicit Approval" Holtec Position.**

ML23271A140, "Request for Exemption from Certain Termination of License Requirements of 10 CFR 50.82"

"On March 20, 2023, HDI met with the NRC, in a public meeting forum, to discuss with the NRC staff the proposed regulatory path to potentially request reauthorization of power operations at PNP. The purpose of the meeting was to provide an overview of the proposed regulatory path and to obtain feedback from

the NRC staff on the reasonableness of the approach.

The NRC provided no comments opposing the reasonableness of the approach (Reference 18)."

Petitioners' Preference for New Rulemaking:

The petitioners emphasize that the requested actions are contingent on the ripeness of the regulatory framework, regardless of whether the NRC proceeds under the "Existing Regulatory Framework" as per SECY-20-0110, or considers the alternate approach of new rulemaking, as proposed in the §2.802 Petition for Rulemaking (Docket ID NRC-2024-0135).

Petitioners assert that the issues must be fully ripe before NRC staff can justifiably continue with License Amendment Request (LAR) reviews or allowing Holtec to proceed with system restoration activities.

The ripeness of the regulatory framework is essential to ensure that any actions taken by NRC staff are grounded in a stable and objective regulatory environment, thereby safeguarding public health

and safety. The petitioners believe that new rulemaking is the superior approach, providing a clearer and more consistent basis for regulatory decisions. However, until either option is fully developed and ripe, continuing with LAR reviews or system restoration would be premature and potentially unsafe.

Important Notes and Appendices:

Petitioner Declarations and Signatures: See Appendix A

Other Related NRC Petitions: See Appendix B

Note About The Expression, “period of system restoration”

There is no NRC specific term for the time period between the submittal of §50.82 certifications, decommission status, and returning to NRC Reactor Oversight Process (ROP), operations status. So, I have adopted the term used by the NRC staff to describe this phase, **period of system restoration**.

This expression is derived from a NRC question from ML24166A291, “SUMMARY OF APRIL 29, 2024, MEETING WITH HOLTEC DECOMMISSIONING INTERNATIONAL, LLC REGARDING PLAN TO SUBMIT A QUALITY ASSURANCE PROGRAM MANUAL TO SUPPORT POTENTIAL REAUTHORIZATION OF POWER OPERATIONS AT PALISADES NUCLEAR PLANT”, where the NRC asked Holtec:

“....the NRC staff asked what quality assurance controls would be in effect during the period of system restoration, and what document would contain these controls...”

Prepared By:

This petition has been prepared by Alan Blind, a retired, knowledgeable individual with experience in NRC regulations and nuclear plant operations. While Alan is not a lawyer, he is a concerned member of the public, responding to the NRC’s invitation for public requests for hearings on two aspects of Holtec International’s effort to return the Palisades Nuclear Plant to operational status.

In preparing this petition, Alan has strived to meet all procedural and legal requirements, recognizing the importance of adjudicatory efficiency, though some minor procedural errors may be present.

The Nuclear Regulatory Commission's public invitation to request hearings presents a challenging paradox for concerned citizens. Although the NRC promotes public participation, the stringent legal requirements detailed in various regulations for requesting an adjudicatory hearing are inherently complex and typically demand legal expertise.

This complexity creates a significant barrier for non-lawyers, who may not possess the technical legal knowledge required to fully comply with procedural requirements in the regulations. Therefore, it is essential for the NRC to consider the spirit of public involvement and apply some degree of flexibility when reviewing petitions from individuals who, despite lacking formal legal training, are driven by a genuine concern for public safety and environmental protection.

Historically, courts have recognized the critical role of public participation in regulatory processes, as evidenced in *Union of Concerned Scientists v.*

NRC, 735 F.2d 1437 (D.C. Cir. 1984). In this case, the court underscored that the NRC should not unduly restrict access to hearings by imposing excessively burdensome procedural requirements on petitioners.

Consequently, while it is necessary to uphold legal procedural standards, the NRC should also ensure that these standards do not become obstacles to meaningful public involvement.

Petition Details

Purpose:

The purpose of this letter is to request a hearing as per §2.309, “Hearing requests, petitions to intervene, requirements for standing, and contentions.”

Petitioners and Standing:

We, the petitioners listed in “Appendix A: Petitioners, own homes and reside either full or part time, in close proximity to the Palisades Nuclear Plant, specifically within and near the Palisades Park Residential Park, which is directly adjacent to the Palisades Nuclear plant’s Owner

Controlled Area. As home owners in this immediate vicinity, we have a direct and tangible interest in the safety, regulatory oversight, and long-term implications of the plant's operations.

All petitioners own homes and reside either full or part time, within the Palisades Emergency Planning Zone (EPZ), specifically within the Plume Exposure Pathway EPZ, making us directly vulnerable to any nuclear incidents at the Palisades Nuclear Plant. This proximity means that in the event of entry into the emergency plan and a radiological release, we would be among the first to experience potential health hazards, including inhalation of radioactive particles, contamination of our homes, and forced evacuation. Given these significant risks, it is imperative that NRC staff rigorously apply the latest NRC regulations and General Design Criteria to prevent any scenario that could trigger the activation of the Palisades Emergency Plan. Our safety, health, and well-being are directly contingent upon these measures being objectively and strictly enforced to avoid unnecessary exposure to radioactive materials and the associated disruptions to our homes and lives.

Holtec International has announced plans to seek another life extension term beyond the current term, after the plant returns to operation. The NRC's decisions on the plant's return to service and related License Amendment Requests (LARs) will be binding on our community for up to 25 more years.

We are concerned that the NRC's actions, particularly in relation to the approval of Holtec's proposed "repower regulatory framework," and use of interpretations from SECY-20-0110, "existing regulatory framework", may compromise safety and oversight in ways that could adversely affect us.

Petitioner Jody Flynn: Slow Down, Do this Right and NRC Restart

Panel Response:

At the August 1, 2024, NRC Public Meeting to Discuss the Process for restarting Palisades, Petitioner Jody Flynn questioned the NRC Restart Panel, expressing concern about the pace of the process, saying, in part,

“This is a total and complete nightmare for us. Why are you (NRC Restart Panel) rushing to do this? You have no roadmap, you have no set of rules you are working from. You need to slow down and do this right....you are about to do something that has never been done before. You should be taking your time...you should be making this perfect. This is a precedent, so it needs to be the best. We are relying on you”.

The NRC Restart Panel responded, in part:

“Our number one priority is safety. Our mission is safety. We are about efficiency, but if additional questions come up in our reviews, we will ask Holtec to respond and publish it on our website. We will take the time it takes to make sure the plant is safe. We have high standards for safety and will use resources from all areas of the NRC as necessary. If you think we are missing anything, reach out and ask us. We will engage. We are being very deliberate. While we have metrics to measure our performance, we will take as much time as it takes to ensure Holtec’s submittals are correct.”

Current Petitioner Adverse Impact:

The petitioners contend that they have already been adversely affected. The NRC's allowance of Holtec's use of regulations, as outlined within the scope of this petition, but not yet approved by NRC staff, to carry out system restoration activities has already caused harm. Without the corrective actions requested in this petition, these ongoing restoration activities by Holtec may lead to long-term and potentially irreversible consequences for the petitioners. (See Contentions One and Four for reference.)

Single Point of Contact:

Petitioners request that the single point of contact be:

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Scope of the Proceeding:

On August 7, NRC published Federal Register Notice (FRN) Docket No. 50-255; NRC-2024-0130. The FRN gave a deadline of October 4, 2024, for a hearing opportunity.

The U.S. Nuclear Regulatory Commission (NRC or the Commission) received and is considering the issuance of four amendments to Renewed Facility Operating License (RFOL) No. DPR-20, as requested by Holtec Decommissioning International, LLC (HDI) on behalf of Holtec Palisades, LLC, to support the potential reauthorization of power operations at the Palisades Nuclear Plant (PNP).

The scope of this notice is limited to comments, requests for a hearing, and petitions for leave to intervene related to the four proposed license amendment requests listed in tabular form in Section III of this document.

The subject of this public request for a hearing applies to ML23348A148 and ML24191A422, “Request to Revise Operating License and Technical Specifications to Support Resumption of Power Operations.”

Scope, Note One, All Contentions: This petition refers to ML23072A404, “Regulatory Path to Reauthorize Power Operations at the Palisades

Nuclear Plant,” which is not listed on the list of documents in scope.

Holtec has relied on statements in this submittal to justify the “in scope”

License Amendment Requests, documents. Petitioner contends

ML23072A404, is now “in scope” based on:

Direct Connection: ML23072A404 directly supports or underpins the in-scope documents. Since the in-scope documents are already part of the proceeding, the basis document is inherently relevant and should be included for a full understanding of the arguments and evidence.

Foundation for Decision-Making: In-scope submittals cannot be fully evaluated without considering the basis document. The ripeness of the issue depends on the completeness of the record, which includes all supporting documents.

Scope, Note Two, Contention Four, Reference to “in scope” LAR

Reviews:

”Petitioner contends that because Holtec and NRC staff rely on regulatory interpretations or changes that have not yet been fully vetted or approved,

the issues in question are not yet ripe for final adjudication. The reliance on these unvetted regulatory changes opens the door to broadening the scope of contentions that rely on “in scope” document reviews.

Specifically, the anticipated concurrent review of licensing actions to restore the operating basis of the facility and the implementation of the “Restart of Inspection Process” (as referenced in Contention Four), underscores the need for a fully developed and mature regulatory framework.

Without this, the case is premature, and a comprehensive examination of all related contentions is necessary to ensure that the issues are ripe for decision."

Legal Basis To Allow ML23072A404, “Regulatory Path to Reauthorize Power Operations” and ML24166A291, “Request to Update the Palisades Quality Assurance Plan to Support Resumption of Power Operations”:

To support the argument for allowing additional documents into the scope of the proceeding, several legal and regulatory references can be cited. **10 CFR 2.309(f)(1)(iii)** states that contentions must include a sufficient factual or expert basis to be admitted, and supplementary documents that directly relate to or support the contention should be considered relevant. This has been upheld in cases like **Union of Concerned Scientists v. NRC (735 F.2d 1437, D.C. Cir. 1984)**, where the court emphasized the importance of a complete and thorough administrative record. The court ruled that limiting the scope of proceedings to certain documents without considering others that are crucial to understanding the case could impede a fair hearing.

Furthermore, **Baltimore Gas & Electric Co. v. NRDC (462 U.S. 87, 1983)** confirmed that decisions must be based on substantial evidence, which often requires considering all relevant documents, including those that may not initially appear within the narrowly defined scope but provide necessary context or technical detail. The **Administrative Procedure Act (APA)** also supports this stance, as it mandates a full and transparent review process, including the right

for petitioners to submit relevant evidence to ensure a comprehensive evaluation of the matter.

Thus, under **10 CFR 2.309** and supported by precedents like **Union of Concerned Scientists v. NRC** and **Baltimore Gas & Electric Co. v. NRDC**, the inclusion of documents such as **ML23072A404** into the scope of the proceeding is legally justified. These documents provide essential context and directly support the petitioner's contentions, contributing to a complete administrative record. Excluding them would not only limit the factual basis required for a fair hearing but also conflict with the principles of thorough and transparent regulatory oversight as established by the **Administrative Procedure Act (APA)**. This ensures that the NRC fulfills its duty to consider all relevant evidence when making decisions that impact public safety and regulatory compliance

This petition includes four Contentions:

1. NRC staff are proceeding with the review of license amendments, and other licensee restart actions, based on a denial of a rulemaking

petition without approval from NRC General Counsel of staff's interpretation of SECY-20-0110 for Holtec's proposed license amendments, specifically regarding which NRC rules constitute the "existing regulatory framework."

2. Holtec's proposal to update the Final Safety Analysis Report (UFSAR), now titled the Defueled Safety Analysis Report (DSAR), via the 10 CFR 50.59 process (changes, tests, and experiments) is flawed and not consistent with a more applicable regulation within the "existing regulatory framework" as referenced in SECY-20-0110.
3. Holtec's proposal to update the HDI decommissioning Quality Assurance Program Description (QAPD) currently in effect, with appropriate quality assurance controls to cover the activities being performed at the plant during the restoration period, without prior NRC approval, is flawed and not consistent with a more applicable regulation within the "existing regulatory framework" as referenced in SECY-20-0110.
4. The NRC is allowing Holtec to take "other actions" within the "existing regulatory framework," as referenced in SECY-20-0110, to complete the period of system restoration activities. In its "in scope"

License Amendment Requests, Holtec proposed rules for the QAPD and FSAR (see contentions one, two, and three) that are now being used, without NRC approval, to support the period of system restoration activities. Doing so, does not give NRC inspections staff adequate, objective, NRC approved guidance for inspection activities. NRC inspection manual statements, brings this contention within scope of the “in scope” License Amendment Review submittals.

Summary of Contentions Basis:

NRC staff have indicated that no specific regulations currently govern a plant undergoing decommissioning and returning to operations through a period of system restoration. The petitioner argues that the application of the “existing regulatory framework” as stated in SECY-20-0110 is highly subjective. This subjectivity is evident in the differing interpretations between Holtec’s proposed regulations and the petitioner’s view of what regulations are more appropriate, a situation further complicated by the NRC staff's public silence regarding its acceptance of Holtec’s proposed regulations guiding the NRC staff’s LAR reviews, which are within the scope of this petition for public hearing.

As evidenced by NRC staff moving forward with the review of the Holtec License Amendments, the subject of Federal Register Notice (FRN) Docket No. 50-255; NRC-2024-0130, it would appear staff have accepted the Holtec's "subjective" regulation selection proposals. If so, petitioners ask that NRC staff be ordered to show the public its basis and NRC Counsel Interpretation approval for its apparent agreement with the Holtec proposed rules for the period of system restoration.

NRC Mission, concern in applying the SECY-20-0110, "existing regulatory framework" and need for NRC Counsel review / approval:

To effectively meet the NRC's mission of ensuring the safe use of radioactive materials, it is essential that the regulations governing nuclear activities remain objective rather than subjective. Objective regulations, based on clear, measurable standards, ensure uniformity and fairness in the regulatory process. This clarity is crucial, allowing both NRC staff and licensees to understand precisely what is required to maintain safety and security, thereby reducing ambiguity and minimizing the risk of misinterpretation.

However, the introduction of an interpretation from SECY-20-0110, which stated that a licensee and NRC staff may select a rule within the “existing regulatory framework” because the NRC recognizes that there are no current NRC rules specifically written for returning a plant from the decommissioning phase, after submitting its §50.82 certifications, back to full power operations, raises significant concerns relative to meeting the NRC's mission.

Allowing licensees to choose from among existing regulations introduces a level of subjectivity into the regulatory process, potentially leading to inconsistent application of safety standards. This flexibility might result in licensees prioritizing less stringent rules that, while technically compliant, may not fully address the unique risks of their operations. Such an approach could compromise the objectivity and consistency vital for ensuring the safety and security of nuclear activities, leading to a patchwork of compliance and complicating NRC oversight.

Moreover, it is imperative that the NRC acts independently from the licensees' interests to ensure its mission. The NRC's role as an independent regulator is critical in maintaining public trust and ensuring

that nuclear safety is prioritized over economic or operational concerns of the licensees. Independent action by the NRC ensures that regulations are applied objectively and without bias, focusing solely on protecting public health, safety, and the environment. If the NRC were to allow licensees to influence the selection or interpretation of applicable regulations, it could lead to conflicts of interest, where decisions are made based on convenience or cost rather than safety.

To mitigate these concerns, any use of the “existing regulatory framework” must be subject to a second level of review and approval. This could be achieved by following the § 50.3 Interpretations rule, which states, "Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission."

This additional layer of review ensures that any interpretation or application of the regulations remains aligned with the NRC’s mission and maintains the integrity of the regulatory framework. By requiring written authorization or interpretation by the General Counsel, the NRC can

ensure that any flexibility in applying the existing regulatory framework does not undermine safety and security standards, preserving the objective and consistent application of regulations essential to public health and environmental protection.

This approach reinforces the NRC's commitment to acting independently and impartially, ensuring that its decisions are driven solely by its mission to protect people and the environment.

Basis in Law:

Atomic Energy Act (AEA), 1954, as amended (42 U.S.C. §§ 2011-2297h-13):

The AEA provides the legal foundation for the NRC's authority to regulate nuclear materials and facilities to protect public health and safety. Under § 2133 and § 2201, the NRC is mandated to establish and enforce safety standards that govern the licensing, operation, and regulation of nuclear facilities, including, by inference, the return of decommissioned plants to operational status. This statute supports the requirement that nuclear regulations must remain

objective, measurable, and uniformly applied to prevent regulatory subjectivity or inconsistency, which could compromise public safety.

The AEA also underscores the NRC's obligation to ensure that safety standards are upheld through rigorous oversight and the prevention of conflicts of interest between licensees and regulatory staff (§ 2232). The petition's call for the application of § 50.3, requiring interpretations of regulations to be approved by the General Counsel, aligns with the AEA's delegation of authority, ensuring that only vetted regulatory interpretations are applied. This safeguard is essential for maintaining the integrity of the NRC's mission to protect public health, safety, and the environment.

Note: See Contention One, Basis In Law, for a more in-depth basis for AEA.

Skidmore Deference (Skidmore v. Swift & Co., 1944): In this case, the Supreme Court ruled that the weight given to an agency's judgment depends on its thoroughness, validity, consistency, and ability to persuade. This principle underscores the importance of rigorous review

and the need for higher-level approval when an interpretation may be subject to challenge, as it ensures the interpretation is well-reasoned and consistent with broader legal standards.

Administrative Procedure Act (APA), 1946: The APA requires that federal agencies follow specific procedures when creating, modifying, or interpreting regulations, particularly through the rulemaking process. This includes public notice, comment periods, and, often, the need for higher-level review within the agency. The APA's requirements for transparency, public participation, and thorough review parallel the idea that subjective regulatory decisions should undergo higher-level scrutiny and public disclosure.

Presidents in Law:

1. Union of Concerned Scientists v. NRC, 735 F.2d 1437 (D.C. Cir. 1984)

- **Key Point:** In this case, the court emphasized the importance of **public participation** in NRC decision-making processes and reinforced the NRC's responsibility to **protect public health and safety**.

- **Relevance:** The court recognized that regulatory standards should not be arbitrary or overly flexible in ways that undermine public safety. This aligns with petitioner's argument that the selection of regulatory frameworks should be objective and clearly justified to prevent subjective application.

2. Baltimore Gas & Electric Co. v. NRDC, 462 U.S. 87 (1983)

- Key Point: This case reinforced the NRC's discretion in technical matters but also affirmed that NRC decisions must be based on substantial evidence and that **public health and safety must remain paramount.**
- **Relevance:** This case supports petitioner's point about the need for **objective, evidence-based regulation.** While the NRC has technical expertise, its decisions must still be grounded in clear, demonstrable safety standards, rather than allowing subjective interpretations that could compromise the

integrity of nuclear safety.

3. Natural Resources Defense Council, Inc. v. U.S. Nuclear Regulatory Commission, 547 F.2d 633 (D.C. Cir. 1976)

- **Key Point:** The court held that **NRC regulations must balance the technical and safety concerns** while protecting public health. It emphasized that any deviations from existing standards must be adequately justified and subject to public scrutiny.
- **Relevance:** This case reinforces the argument that **subjective regulatory interpretations** could lead to safety risks if they are not properly vetted and reviewed. It supports the idea that General Counsel review is necessary to ensure that regulatory flexibility does not undermine public safety.

4. Citizens Awareness Network, Inc. v. NRC, 59 F.3d 284 (1st Cir. 1995)

- **Key Point:** This case stressed the importance of the NRC's role in ensuring that its regulatory decisions are consistent with the protection of **public health and safety**, even in complex technical matters.
- **Relevance:** The court's ruling aligns with petitioner's argument that the NRC's regulatory framework must be applied **consistently and without undue flexibility** that could compromise safety. It reinforces the idea that **General Counsel oversight** is crucial to maintaining objectivity in regulatory decision-making.

5. Auer v. Robbins, 519 U.S. 452 (1997)

- **Key Point:** This case reaffirmed the principle that **an agency's interpretation of its own ambiguous regulations** is entitled to deference, but only if the interpretation is **reasonable** and **consistent** with the statute's purpose.

- **Relevance:** This supports petitioner's argument that **NRC interpretations of ambiguous regulations**—like the application of SECY-20-0110—must be **reviewed and approved** by the General Counsel to ensure they are reasonable and aligned with the AEA's goal of protecting public safety.

Summary of Precedents:

These precedents collectively support petitioner's argument that NRC regulations should be **objective, measurable, and uniformly applied**. They also affirm the need for **rigorous oversight** and **General Counsel review** to ensure that regulatory interpretations do not become subjective or inconsistent, which could endanger public safety.

Requested Action Summary:

If the NRC staff agrees to apply SECY-20-0110 to allow the Palisades plant to return to operations from a decommissioning status using the “existing regulatory framework,” it is crucial that the selection of the most

appropriate regulations for the system restoration period and License Amendment Reviews undergo a thorough and comprehensive review.

Additionally, due to the subjective nature of rule selection and the lack of clear guidance for this process, it is imperative that the NRC General Counsel formally approves the interpretation of the applicable regulations.

Holtec and NRC are working in parallel with “subjective” rules for License Amendment Reviews to complete *period of system restoration* activities and inspections. Doing so without NRC approved, and objective design standards with quality program requirements, must not be allowed to continue, pending the outcome of these hearings. Given that these actions have already commenced, it is imperative that the NRC address these issues now, as they have matured into significant regulatory and safety concerns that must be resolved to protect public health and safety.

To ensure transparency and maintain public trust, the decision-making process for selecting the most appropriate rule, must be made publicly accessible.

Request: If Holtec continues with system restoration activities without first obtaining NRC approval for the appropriate regulations, including a formally approved Final Safety Analysis Report (FSAR) and Quality Assurance Program Description (QAPD), the NRC, petitioners request the NRC to consider any work completed during this period to be invalid. Such work, undertaken without proper regulatory approval, should be excluded from consideration in Holtec's request to regain its operating license. This ensures that all restoration activities adhere to NRC-approved standards and prevents the use of tainted or improperly conducted work in future licensing decisions. The NRC must establish that no further actions can proceed until full regulatory compliance is ensured, safeguarding the integrity of the regulatory process and public safety.

Contention One:

NRC staff are proceeding with the review of license amendments based on a denial of a rulemaking petition without approval from NRC General Counsel of staff's interpretation of SECY-20-0110 for Holtec's proposed license amendments, specifically regarding which NRC rules constitute the "existing regulatory framework." Although NRC staff are moving forward with licensing actions, there is no public visibility regarding whether NRC General Counsel agrees with the use of SECY-20-0110 as a justification for NRC staff actions.

Furthermore, there is no public visibility of the direct connection between the existing NRC rules to be used for a plant that has submitted its §50.82 shutdown certifications through the "return to service" period and the return to a known set of NRC rules for power reactor operations and SOP oversight. NRC staff must propose, and General Counsel must approve, the specific "return to service" NRC rules to be used, drawn from within the SECY-20-0110 denial basis. Holtec and staff are proceeding using the proposed Holtec NRC rules, which petitioners assert are outside the current regulatory framework for the Holtec proposed licensing actions.

For example:

- 10 CFR 50.59, “Changes, tests, and experiments without prior NRC approval”
- Appendix B to Part 50, “Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants”

Basis: NRC staff are proceeding with using SECY-20-0110 as a justification for their actions, despite differing wording used from the same reference and no apparent NRC General Counsel approval of the correct interpretation:

Holtec, in ML23072A404, “Regulatory Path to Reauthorize Power Operations at the Palisades Nuclear Plant,” has cited a petition denial, SECY-20-0110, as a justification for its actions:

“...the NRC has recognized that its existing regulatory framework—namely the process of reviewing and approving exemption and license amendment requests prescribed by 10 CFR 50.12 and 50.90 provides adequate flexibility to accommodate reauthorization of operations...”

A reading of SECY-20-0110, as published in the Federal Register, finds a different sentence. There is no reference to § 50.90, “Application for amendment of license, construction permit, or early site permit”:

“...the existing regulatory framework may be used to address the issue raised by the petitioner....”

A reading of ML20205L309, the denial letter from the Secretary of the Commission to George Berka, includes the words “on a case-by-case basis”:

“...The NRC is denying PRM-50-117 because the existing regulatory framework may be used on a case-by-case basis to address the issue raised in the petition...”

As per § 50.3, “Interpretations,” General Counsel needs to first:

1. Reconcile the differing language used by Holtec, staff, and the Federal Register for the correct meaning of the denial language in PRM-50-117.
2. Approve the final NRC staff’s interpretation on what specific rules are to be used for staff review of Holtec submittals and Holtec return to

service period activities, i.e., FSAR, QAPD, SEP update, as per the “existing regulatory framework may be used on a case-by-case basis to address the issue raised in the petition...” language.

References:**§ 50.3 Interpretations.**

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized as binding upon the Commission.

§ 50.82 Termination of License.

(1) (i) When a licensee has determined to permanently cease operations, the licensee shall, within 30 days, submit a written certification to the NRC, consistent with the requirements of § 50.4(b)(8); (ii) Once fuel has been permanently removed from the reactor vessel, the licensee shall submit a written

certification to the NRC that meets the requirements of § 50.4(b)(9);

(2) Upon docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel, or when a final legally effective order to permanently cease operations has come into effect, the 10 CFR part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel in the reactor vessel.

Basis: Holtec has proposed the use of regulations that are outside the “Existing Regulatory Framework.” Following are examples:

Comparison of Holtec’s Proposals vs. Existing Regulatory Requirements

Final Safety Analysis Report (FSAR) (Reference: Contention Two for basis):

Holtec’s Proposal:

In ML23348A148, “Request to Revise Operating License and Technical Specifications to Support Resumption of Power Operations”:

“The Updated Final Safety Analysis Report (UFSAR), now titled the Defueled Safety Analysis Report (DSAR), will be updated via the 10 CFR 50.59 process (Changes, tests, and experiments) to reflect the docketed version that was in effect prior to the 10 CFR 50.82(a)(1) certifications, PNP UFSAR Revision 35 (Reference 6).”

Existing NRC Regulatory Framework:

Under § 50.34, each application for a construction permit must include a preliminary safety analysis report. Similarly, the Final Safety Analysis Report (FSAR) must contain comprehensive technical information ensuring the safe operation of the facility. Holtec's approach of relying on the 10 CFR 50.59 process raises concerns about whether it adequately complies with the rigorous requirements set forth in § 50.34.

Quality Assurance Program (QAP) (Reference: Contention Three for basis):

Holtec's Proposal:

In ML24166A291, Pre-Submittal Meeting,

“Request to Update the Palisades Quality Assurance Plan to Support Resumption of Power,” Holtec proposes updating the HDI decommissioning Quality Assurance Plan (QAP) currently in effect. The updated plan would cover activities during the restoration period, with changes made without prior NRC approval, although subject to inspection afterward.”

Existing NRC Framework:

Appendix B to Part 50—Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants—mandates that every applicant for a construction permit include a description of the quality assurance program in its preliminary safety analysis report, per § 50.34. This description must detail the quality assurance applied to design, fabrication, construction, testing, and managerial and administrative controls to ensure

safe operation. Holtec's proposal to update the QAP without prior NRC approval could undermine these stringent requirements.

Legal Basis: The statement that nuclear regulations must remain objective, measurable, and uniformly applied and the assertion that the AEA underscores the NRC's obligation to uphold safety standards through rigorous oversight and prevent conflicts of interest can be derived from the Atomic Energy Act (AEA) in the following ways:

1. Emphasis on Public Safety and Regulatory Clarity

- The **Atomic Energy Act's** core purpose is to ensure the safe use of nuclear materials for civilian and military purposes, while protecting public health and safety (42 U.S.C. § 2011). This broad objective implies that regulations need to be clear, objective, and uniformly applied to achieve consistent safety outcomes.
- In **§ 2232(b)**, the requirement for applicants to demonstrate their qualifications and compliance with NRC rules and regulations

ensures that licensees must meet clear and measurable standards to protect public safety. This guards against subjective interpretations of the rules, as only qualified applicants that meet specific, defined criteria can receive licenses.

2. Objective Standards and Uniform Application

- The **NRC's mandate to enforce safety standards** under the AEA emphasizes consistency and clarity. For example, **§ 2232(c)** requires the NRC to issue licenses only when it determines that the applicant meets all regulatory requirements. This section highlights the need for regulations to be uniformly applied, meaning the same standards must be consistently enforced across different applicants to avoid any deviation that could compromise safety.
- The **NRC's rulemaking authority** under other parts of the AEA (such as 42 U.S.C. § 2201) allows the agency to set clear, measurable standards for safety. Objective regulations provide clarity to both licensees and the NRC, ensuring that the criteria for maintaining

safety are well-understood and consistently applied.

3. Prevention of Conflicts of Interest

- The AEA's emphasis on **NRC independence** in decision-making (also reflected in the **Energy Reorganization Act of 1974**) helps protect against conflicts of interest between the NRC and licensees. Since the NRC's regulatory mission is to protect public health and safety, any decision-making that favors a licensee's economic or operational convenience over safety would conflict with this mission.
- This is reinforced by **§ 2232(b)**, which requires the NRC to base its licensing decisions solely on the applicant's ability to comply with regulatory requirements, not on other factors that could introduce bias or conflict.

4. Rigorous Oversight and Public Trust

- The AEA consistently highlights the importance of maintaining rigorous oversight over nuclear activities. For instance, **§ 2201(i)** grants the NRC the authority to inspect nuclear facilities and enforce

compliance with safety standards, ensuring licensees adhere to the established regulations. This rigorous oversight is a key aspect of ensuring that licensees do not circumvent safety standards.

- The AEA also provides for **public participation and transparency** in regulatory decisions (e.g., public hearings under 42 U.S.C. § 2239), which reinforces the need for objective and consistent regulations that can withstand public scrutiny.

Conclusion:

From these provisions, the AEA clearly supports the notion that nuclear regulations must be **objective, measurable, and uniformly applied** to prevent **regulatory subjectivity** or **inconsistency**, both of which could compromise safety. The emphasis on **NRC independence** and **rigorous oversight** further reflects the importance of protecting against conflicts of interest, ensuring that regulations are applied solely to maintain safety, not for the convenience of licensees.

Thus, the derived statement is a logical interpretation of the **AEA's intent** and its **specific provisions** for maintaining nuclear safety and regulatory integrity.

Contention Two

Holtec's proposal to update the Final Safety Analysis Report (UFSAR), now titled the Defueled Safety Analysis Report (DSAR), via the 10 CFR 50.59 process (Changes, tests, and experiments) to reflect the docketed version that was in effect prior to the 10 CFR 50.82(a)(1) certifications, PNP UFSAR Revision 35 (Reference 6) is flawed because the previous FSAR is no longer the licensing basis for the plant. The previous licensing basis, including the results of the Systematic Evaluation Process (SEP), NUREG-0820, was terminated when the §50.82 certifications were submitted by the previous owner.

It is understood that no specific regulation governs the writing of a new Design Basis/PSAR/FSAR for a plant in decommissioning and return to operations via a *period of system restoration*. Contention Two points out that the application of the "existing regulatory framework" from SECY-20-0110 is highly subjective and must be carefully reviewed by staff, with the interpretation approved by General Counsel as per Contention One.

Basis: Holtec's proposed use of §50.59 is flawed.

§ 50.59 Changes, tests, and experiments:

(a) Definitions for the purposes of this section: (4) Final Safety Analysis Report (as updated) means the Final Safety Analysis Report (or Final Hazards Summary Report) submitted in accordance with Sec. 50.34, as amended and supplemented, and as updated per the requirements of Sec. 50.71(e) or Sec. 50.71(f), as applicable.

(c)(1) A licensee may make changes in the facility as described in the final safety analysis report (as updated), make changes in the procedures as described in the final safety analysis report (as updated), and conduct tests or experiments not described in the final safety analysis report (as updated) without obtaining a license amendment pursuant to Sec. 50.90 only if:

Holtec's proposed use of 10CFR50.59 is not possible because there is no current FSAR, submitted in accordance with Sec. 50.34, as amended and supplemented, and as updated per the requirements of Sec. 50.71(e) or Sec. 50.71(f), as applicable, to perform the required evaluation of whether the changes can be made without prior NRC approval.

Basis: Entergy submitted 10 CFR 50.82(a)(1) certifications of the permanent cessation of power operations, and therefore, the Entergy FSAR and design basis no longer exist.

On June 13, 2022, Entergy submitted to the NRC the 10 CFR 50.82(a)(1) certifications of the permanent cessation of power operations at PNP and the permanent removal of fuel from the PNP reactor vessel. On this same date, the NRC informed Entergy that the reactor oversight process at PNP had been terminated and that the NRC decommissioning inspection program was now applicable. This is the date when PNP transitioned from a power operations plant to a facility in decommissioning.

On June 15, 2022, Entergy implemented the PDTS and supporting RFOL amendments and exemptions that modified the regulatory requirements to reflect a facility in decommissioning.

On June 28, 2022, Holtec acquired Palisades Plant from Entergy, and the NRC issued PNP RFOL amendments to reflect this change in ownership and name change, and the transfer of Entergy Nuclear Operations, Inc. operating authority to Holtec Decommissioning International, LLC (Reference 10). Note, at the time of license transfer, PNP was a facility in

decommissioning, and HDI was given operating authority by the NRC for the purpose of decommissioning the PNP site.

Contention Three:

Holtec’s proposal to update the HDI decommissioning QAPD currently in effect, with appropriate quality assurance controls to cover the activities being performed at the plant during the restoration period, without prior NRC approval, is flawed. Consistent with the “existing regulatory framework” from SECY-20-0110, petitioner’s review of “Appendix B to Part 50—Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants” is the current framework and requires that the period of system restoration QAPD be more similar to a “Design and Construction” QAPD review as defined in NUREG-800, “Standard Review Plans.”

It is understood that no specific regulation governs the writing of a new Quality Assurance Plan for a plant in decommissioning and return to operations via a period of system restoration. Contention Three points out that the application of the “existing regulatory framework” from SECY-20-0110 is highly subjective and must be carefully reviewed by staff, with the interpretation approved by General Counsel as per Contention One.

Basis: Entergy submitted 10 CFR 50.82(a)(1) certifications of the permanent cessation of power operations, and therefore, the Entergy operating QAPD no longer exists. Holtec assumed ownership of a plant in decommissioning status and a PDTS, pertaining only to decommissioning activities.

On June 13, 2022, Entergy submitted to the NRC the 10 CFR 50.82(a)(1) certifications of the permanent cessation of power operations at PNP and the permanent removal of fuel from the PNP reactor vessel. On this same date, the NRC informed Entergy that the reactor oversight process at PNP had been terminated and that the NRC decommissioning inspection program was now applicable to PNP (Reference 9). This is the date when PNP transitioned from a power operations plant to a facility in decommissioning.

On June 15, 2022, Entergy implemented the PDTS and supporting RFOL amendments and exemptions that modified the regulatory requirements to reflect a facility in decommissioning.

On June 28, 2022, Holtec acquired PNP from Entergy, and the NRC issued PNP RFOL amendments to reflect this change in ownership and name change, and the transfer of Entergy Nuclear Operations, Inc. operating

authority to Holtec Decommissioning International, LLC (Reference 10).

Note, at the time of license transfer, PNP was a facility in decommissioning, and HDI was given operating authority by the NRC for the purpose of decommissioning the PNP site.

Basis: Holtec still does not have an NRC-approved “Operations” or period of system restoration QAPD, despite its belief that it can simply “update the HDI decommissioning QAPD currently in effect, with the appropriate quality assurance controls to cover the activities being performed at the plant during the restoration period.” The NRC has not publicly stated whether it approves of this Holtec proposal. Nonetheless, Holtec is proceeding based on the assumption that the NRC's lack of response constitutes implicit approval, a rationale it has relied on in several of its submittals regarding its proposed regulatory path for returning to service. Petitioners challenge the use of “implicit approval” as a regulatory basis.

ML24166A291, Pre-Submittal Meeting, “Request to Update the Palisades Quality Assurance Plan to Support Resumption of Power.”

NRC Question and Holtec Response:

“Since this new QAPM would not be in effect until after potential reauthorization of power operations, the NRC staff asked what quality assurance controls would be in effect during the period of system restoration, and what document would contain these controls. The licensee stated that they plan to update the HDI decommissioning QAP currently in effect with the appropriate quality assurance controls to cover the activities being performed at the plant during the restoration period. The licensee stated they would make these changes without prior NRC approval using the allowances in the regulations but would be subject to inspection once they were in place”.

Basis: Holtec is proceeding based on implicit approval, referencing the “the NRC did not respond” argument to support its restoration period actions.

ML23271A140, “Request for Exemption from Certain Termination of License Requirements of 10 CFR 50.82”:

From the report:

“On March 20, 2023, HDI met with the NRC, in a public meeting forum, to discuss with the NRC staff the proposed regulatory path to potentially request reauthorization of power operations at PNP. The purpose of the meeting was to provide an overview of the proposed regulatory path and to obtain feedback from the NRC staff on the reasonableness of the approach. The NRC provided no comments opposing the reasonableness of the approach (Reference 18).”

“On May 24, 2023, HDI met with the NRC, in a public meeting forum, to discuss the regulatory framework to potentially request reauthorization of power operations at PNP, with a focus on the request for exemption to 10 CFR 50.82(a)(2). The purpose of the meeting was to provide an overview of the proposed regulatory framework, with emphasis on the requested exemption to 10 CFR 50.82(a)(2), and to obtain feedback from the NRC staff on the reasonableness of the approach. The NRC provided no comments opposing the reasonableness of the approach (Reference 19).”

Basis: The NRC does not have a regulatory basis or review plan for approving Holtec’s request to “update the HDI decommissioning QAPD currently in effect, with the appropriate quality assurance controls to cover

the activities being performed at the plant during the period of system restoration.”

Basis: Holtec activities in progress may contain Quality Control points that are not observable after the fact and can only be completed under an NRC-approved QAPD.

Appendix B to Part 50—Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants:

“...As used in this appendix, ‘quality assurance’ comprises all those planned and systematic actions necessary to provide adequate confidence that a structure, system, or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to the physical characteristics of a material, structure, component, or system which provide a means to control the quality of the material, structure, component, or system to predetermined requirements...”

“...The applicant shall establish at the earliest practicable time, consistent with the schedule for accomplishing the activities, a

quality assurance program which complies with the requirements of this appendix...”

NUREG-800, “Standard Review Plan,” lists review plans for each phase:

- Design and Construction
- Operations
- Design certification, Early Site Permit, and New License Applications

“Restoration Period,” a.k.a. returning a plant to operations from decommissioned status, does not have a Standard Review Plan.

Legal Basis: “Holtec is proceeding based on implicit approval”

Legal Argument Against Holtec’s Use of “Implicit” Approval and Regulatory Framework Selection

Introduction

Petitioners assert that Holtec International’s reliance on “implicit” approval from the Nuclear Regulatory Commission (NRC) and its selective application of regulatory rules under the “Regulatory Framework” clause are legally inadequate and inconsistent with the

NRC's regulatory requirements. This argument challenges Holtec's regulatory approach on the grounds of procedural deficiencies and regulatory compliance, emphasizing the need for explicit NRC approval and comprehensive adherence to established regulatory standards.

Legal Requirement for Explicit NRC Approval

The NRC's regulatory framework mandates explicit approval for significant regulatory decisions, particularly those impacting nuclear plant safety and operations. Holtec's reliance on "implicit" approval assumes that silence from the NRC constitutes consent, which undermines the regulatory process's requirement for transparency and explicit communication.

Regulatory Framework and Implicit Approval

Under NRC regulations, especially those outlined in 10 CFR Part 50 and 10 CFR Part 52, any proposed changes to plant operations, including restart procedures, must be explicitly reviewed and approved by the NRC. The reliance on implicit approval contradicts

the regulatory requirements that necessitate formal approval to ensure all safety concerns are addressed comprehensively.

Regulatory Framework Clause and Rule Selection

Holtec's selection of rules under the "Regulatory Framework" clause appears to be selectively applied rather than uniformly adopted. This selective approach raises concerns about whether all relevant regulatory standards are being met comprehensively.

Uniform Application of Regulations

The "Regulatory Framework" clause is intended to provide a comprehensive basis for regulatory compliance, ensuring that all applicable rules are considered. Holtec's selective application of these rules may result in a failure to meet the full spectrum of regulatory requirements, potentially compromising safety and operational integrity.

Lack of Comprehensive Regulatory Review

Holtec's proposed regulatory path and rule selection must be subjected to a thorough and comprehensive NRC review and

approval by NRC General Counsel. The NRC's failure to explicitly address Holtec's regulatory path raises concerns that the review process may have been insufficient or incomplete. This lack of comprehensive review undermines the credibility of Holtec's compliance assertions and the overall regulatory framework.

Potential Risks and Implications

The reliance on implicit approval and selective rule application introduces significant risks to plant safety and regulatory integrity.

The following implications are of particular concern:

Safety Risks

Implicit approval and selective regulation may lead to inadequate safety measures, as not all relevant safety standards may be addressed. This could result in increased risks to plant operations and public safety.

Regulatory Integrity

Allowing implicit approval and selective rule application undermines the regulatory process's integrity, potentially eroding public trust and confidence in the NRC's oversight capabilities.

Contention Four:

The NRC is allowing Holtec to take "other actions" within the "existing regulatory framework," as referenced in SECY-20-0110, to complete the period of system restoration activities. In its "in scope" License Amendment Requests, Holtec proposed rules for the QAPD and FSAR (see contentions one, two, and three) that are now being used, without NRC approval, to support the period of system restoration activities.

According to publicly available documents, the NRC staff has not formally responded to Holtec's proposed regulations, which are the subject of this petition. Despite the absence of implicit* approval, Holtec is proceeding with system restoration activities at the Palisades site based on implicit approval, because NRC has not responded. This presents an immediate harm to the petitioners, who have filed §2.206 petitions requesting the NRC staff to take action to halt these activities. The petitioners urge the adjudicatory authority to consider the urgency of conducting a concurrent review.

Petitioner concern is lack of NRC approved licensing basis and QAPD does not give NRC inspections staff adequate guidance in evaluating

design basis (no NRC approved FSAR) and no quality guidance for activities such as special processes, documentation, quality control inspections, etc (no NRC approved QAPD).

Basis: The NRC is allowing Holtec to take "other actions" within the "existing regulatory framework," as referenced in SECY-20-0110, to complete the period of system restoration activities.

ML24208A153\ML24150A239, "NRC Inspection Manual Chapter 2562, Transition from Decommissioning to Restart Phase.

“When a licensee submits a request for exemption from the requirements of 10 CFR 50.82 to allow placing fuel in the reactor vessel and authorizing operation of the reactor, the restart phase of the reactor facility inspection program can begin. *It is anticipated that the NRC’s review of licensing actions to restore the operating basis of the facility* will occur concurrently with implementation of the Restart of Reactor Facilities Inspection Process.”

Basis: Holtec is using “implicit” approval to complete period of system restoration activities at the Palisades site.

ML23271A140, “Request for Exemption from Certain Termination of License Requirements of 10 CFR 50.82”. Holtec statement.

“On March 20, 2023, HDI met with the NRC, in a public meeting forum, to discuss with the NRC staff the proposed regulatory path to potentially request reauthorization of power operations at PNP. The purpose of the meeting was to provide an overview of the proposed regulatory path and to obtain feedback from the NRC staff on the reasonableness of the approach. The NRC provided no comments opposing the reasonableness of the approach (Reference 18).”

Basis: NRC is allowing Holtec to currently complete period of system restoration activities actions at the Palisades site.

PALISADES NUCLEAR PLANT - RESTART INSPECTION REPORT

05000255_2024011:

On June 13, 2022, Palisades ceased permanent power operations and subsequently removed all fuel from the reactor, as detailed in the letter from Entergy to the NRC, "Certifications of Permanent Cessation of Power Operations and Permanent Removal of Fuel from the Reactor Vessel," (ADAMS Accession No. ML22164A067). On September 28, 2023, Holtec Decommissioning International, LLC (Holtec) submitted a letter to the NRC requesting exemptions from certain portions of the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.82(a)(2) to pursue the potential reauthorization of power operations at Palisades (ADAMS Accession No. ML23271A140). The NRC's initial acceptance to review Palisades' request for exemptions was documented in ADAMS at Accession No. ML23291A440 on November 3, 2023.

Basis in Law:

Ripeness Doctrine and Lack of NRC Oversight of Design Basis

Tools:

The petition raises serious concerns that NRC staff may be allowing Holtec to implement significant actions under the "existing regulatory framework" without proper authorization, adequate oversight, or public review.

These actions, which rely on regulatory interpretations or changes that have not been fully vetted or approved, have effectively ripened into matters requiring immediate NRC scrutiny and because they reference the "in scope" License Amendment Reviews, are subject to this petition request for a public hearing.

The lack of transparency and sufficient regulatory oversight could result in inadequate inspection standards and increase the risk of non-compliance with critical safety regulations.

Given that these actions have already commenced, it is imperative that the NRC address these issues now, as they have matured into significant regulatory and safety concerns that must be resolved to protect public health and safety.

Preparer Declaration and Certifications:

Preparer:

Alan Blind
1000 West Shawnee Road
Baroda, Michigan

a.alan.blind@gmail.com
269-303-6396

Service List Statement:

Pursuant to 10 CFR 2.304(d), I hereby certify that this petition titled "Public Hearing Petition Regarding Palisades Nuclear Plant" has been submitted electronically through the NRC's Electronic Information Exchange (EIE) system.

No additional physical copies have been served to other parties, as electronic submission via the NRC's system is recognized as sufficient service under NRC rules.

Certification of Original Documents:

I further certify that the original signed documents referenced in this petition are on file and can be made available upon request.

I, Alan Blind, certify under penalty of perjury that the statements made in this petition and all accompanying documents are true and correct to the best of my knowledge and belief.

Signature: Alan Blind
Alan Blind, Baroda, Michigan
Executed In Accordance with 10CFR 2.304(d)

Date: 9/3/2024

Appendix A: Petitioner Declarations:

Petitioners:

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Appendix A Declaration: Bruce Davis

For: Federal Register Notice (FRN) Docket No. 50-255; NRC-2024-0130


In the matter of petition, filed under 10 CFR 2.309, seeking a public hearing regarding the proposed license amendments for the Palisades Nuclear Plant, specifically concerning Holtec International's plans to return the plant to operational status after decommissioning.

Under penalty of perjury I, BRUCE G. DAVIS, declare as follows:

1. I am a listed petitioner for the subject matter, and have read and am knowledgeable of the contents in the petition for the matter above, prepared by Alan Blind
2. I own a home and am a FULL TIME resident within the Palisades Emergency Planning Zone (EPZ) (a ten mile radius of the Plant Center Line), and am directly impacted by any potential nuclear incidents at the plant. Given the proximity and associated risks—including radiological releases, contamination, and evacuation—the petitioners have a vested interest in ensuring that the highest standards of safety and regulatory oversight are maintained.
3. I am concerned about the subjectivity being used by Holtec and NRC, without review and approval, to select regulations for the purpose of reviewing License Amendment Requests and used as source documents for NRC inspection of in progress Palisades restart activities. In particular:

The petition challenges the reliance on the "existing regulatory framework" as described in SECY-20-0110. The petitioners assert that this framework, used by both NRC staff and Holtec, introduces unacceptable levels of subjectivity into the regulatory process, particularly in the selection of rules applicable to a plant transitioning from decommissioning back to full operations.

I agree that Alan Blind to be the petition point of contact.

Printed Name BRUCE G. DAVIS Signature 
Executed In Accordance with 10CFR 2.304(d)

Address 27903 SHOREWOOD DRIVE COVERI, MI
49843

Phone Number 518 441 1821 Date 9/6/24

Appendix A Declaration: Karen Davis

For: Federal Register Notice (FRN) Docket No. 50-255; NRC-2024-0130

In the matter of petition, filed under 10 CFR 2.309, seeking a public hearing regarding the proposed license amendments for the Palisades Nuclear Plant, specifically concerning Holtec International's plans to return the plant to operational status after decommissioning.

Under penalty of perjury I, Karen Davis, declare as follows:

1. I am a listed petitioner for the subject matter, and have read and am knowledgeable of the contents in the petition for the matter above, prepared by Alan Blind
2. I own a home and am a Full Time resident within the Palisades Emergency Planning Zone (EPZ) (a ten mile radius of the Plant Center Line), and am directly impacted by any potential nuclear incidents at the plant. Given the proximity and associated risks—including radiological releases, contamination, and evacuation—the petitioners have a vested interest in ensuring that the highest standards of safety and regulatory oversight are maintained.
3. I am concerned about the subjectivity being used by Holtec and NRC, without review and approval, to select regulations for the purpose of reviewing License Amendment Requests and used as source documents for NRC inspection of in progress Palisades restart activities. In particular:

The petition challenges the reliance on the "existing regulatory framework" as described in SECY-20-0110. The petitioners assert that this framework, used by both NRC staff and Holtec, introduces unacceptable levels of subjectivity into the regulatory process, particularly in the selection of rules applicable to a plant transitioning from decommissioning back to full operations.

I agree that Alan Blind to be the petition point of contact.

Printed Name Karen S. Davis Signature [Handwritten Signature]
Executed In Accordance with 10CFR 2.304(d)

Address 27903 Shorewood Drive, Covert, MI 49043

Phone Number 518-441-0129 Date 9/6/24

Appendix A Declaration: Jody Flynn

For: Federal Register Notice (FRN) Docket No. 50-255; NRC-2024-0130

In the matter of petition, filed under 10 CFR 2.309, seeking a public hearing regarding the proposed license amendments for the Palisades Nuclear Plant, specifically concerning Holtec International's plans to return the plant to operational status after decommissioning.

Under penalty of perjury I, JODY FLYNN, declare as follows:

1. I am a listed petitioner for the subject matter, and have read and am knowledgeable of the contents in the petition for the matter above, prepared by Alan Blind
2. I own a home and am a PART TIME resident within the Palisades Emergency Planning Zone (EPZ) (a ten mile radius of the Plant Center Line), and am directly impacted by any potential nuclear incidents at the plant. Given the proximity and associated risks—including radiological releases, contamination, and evacuation—the petitioners have a vested interest in ensuring that the highest standards of safety and regulatory oversight are maintained.
3. I am concerned about the subjectivity being used by Holtec and NRC, without review and approval, to select regulations for the purpose of reviewing License Amendment Requests and used as source documents for NRC inspection of in progress Palisades restart activities. In particular:

The petition challenges the reliance on the "existing regulatory framework" as described in SECY-20-0110. The petitioners assert that this framework, used by both NRC staff and Holtec, introduces unacceptable levels of subjectivity into the regulatory process, particularly in the selection of rules applicable to a plant transitioning from decommissioning back to full operations.

I agree that Alan Blind to be the petition point of contact.

Printed Name JODY FLYNN Signature Jody Flynn
Executed In Accordance with 10CFR 2.304(d)

Address 80036 RAMBLEWOOD DRIVE COVERT, MI 49043

Phone Number 317-506-0803 Date sept. 5, 2024

Appendix A Declaration: Tom Flynn

For: Federal Register Notice (FRN) Docket No. 50-255; NRC-2024-0130

In the matter of petition, filed under 10 CFR 2.309, seeking a public hearing regarding the proposed license amendments for the Palisades Nuclear Plant, specifically concerning Holtec International's plans to return the plant to operational status after decommissioning.

Under penalty of perjury I, THOMAS FLYNN, declare as follows:

1. I am a listed petitioner for the subject matter, and have read and am knowledgeable of the contents in the petition for the matter above, prepared by Alan Blind
2. I own a home and am a partial time resident within the Palisades Emergency Planning Zone (EPZ) (a ten mile radius of the Plant Center Line), and am directly impacted by any potential nuclear incidents at the plant. Given the proximity and associated risks—including radiological releases, contamination, and evacuation—the petitioners have a vested interest in ensuring that the highest standards of safety and regulatory oversight are maintained.
3. I am concerned about the subjectivity being used by Holtec and NRC, without review and approval, to select regulations for the purpose of reviewing License Amendment Requests and used as source documents for NRC inspection of in progress Palisades restart activities. In particular:

The petition challenges the reliance on the "existing regulatory framework" as described in SECY-20-0110. The petitioners assert that this framework, used by both NRC staff and Holtec, introduces unacceptable levels of subjectivity into the regulatory process, particularly in the selection of rules applicable to a plant transitioning from decommissioning back to full operations.

I agree that Alan Blind to be the petition point of contact.

Printed Name THOMAS FLYNN Signature [Signature]
Executed In Accordance with 10CFR 2.304(d)

Address 80036 Ramblewood DR COVERT MI 49043

Phone Number 317 371 3233

Date 9/5/24

Appendix A Declaration: Christian Moevs

For: Federal Register Notice (FRN) Docket No. 50-255; NRC-2024-0130

In the matter of petition, filed under 10 CFR 2.309, seeking a public hearing regarding the proposed license amendments for the Palisades Nuclear Plant, specifically concerning Holtec International's plans to return the plant to operational status after decommissioning.

Under penalty of perjury I, CHRISTIAN MOEVS, declare as follows:

1. I am a listed petitioner for the subject matter, and have read and am knowledgeable of the contents in the petition for the matter above, prepared by Alan Blind
2. I own a home and am a 6 months per year resident within the Palisades Emergency Planning Zone (EPZ) (a ten mile radius of the Plant Center Line), and am directly impacted by any potential nuclear incidents at the plant. Given the proximity and associated risks—including radiological releases, contamination, and evacuation—the petitioners have a vested interest in ensuring that the highest standards of safety and regulatory oversight are maintained.
3. I am concerned about the subjectivity being used by Holtec and NRC, without review and approval, to select regulations for the purpose of reviewing License Amendment Requests and used as source documents for NRC inspection of in progress Palisades restart activities. In particular:

The petition challenges the reliance on the "existing regulatory framework" as described in SECY-20-0110. The petitioners assert that this framework, used by both NRC staff and Holtec, introduces unacceptable levels of subjectivity into the regulatory process, particularly in the selection of rules applicable to a plant transitioning from decommissioning back to full operations.

I agree that Alan Blind to be the petition point of contact.

Printed Name CHRISTIAN MOEVS Signature Christian Moevs
Executed In Accordance with 10CFR 2.304(d)

Address 38340 Blue Star Highway, Covent MI 49043

Phone Number 312-623-3925 Date September 7, 2024

Appendix A Declaration: Diane Ebert

For: Federal Register Notice (FRN) Docket No. 50-255; NRC-2024-0130

In the matter of petition, filed under 10 CFR 2.309, seeking a public hearing regarding the proposed license amendments for the Palisades Nuclear Plant, specifically concerning Holtec International's plans to return the plant to operational status after decommissioning.

Under penalty of perjury I, Dianne Ebert, declare as follows:

1. I am a listed petitioner for the subject matter, and have read and am knowledgeable of the contents in the petition for the matter above, prepared by Alan Blind
2. I own a home and am a Part time resident within the Palisades Emergency Planning Zone (EPZ) (a ten mile radius of the Plant Center Line), and am directly impacted by any potential nuclear incidents at the plant. Given the proximity and associated risks—including radiological releases, contamination, and evacuation—the petitioners have a vested interest in ensuring that the highest standards of safety and regulatory oversight are maintained.
3. I am concerned about the subjectivity being used by Holtec and NRC, without review and approval, to select regulations for the purpose of reviewing License Amendment Requests and used as source documents for NRC inspection of in progress Palisades restart activities. In particular:

The petition challenges the reliance on the "existing regulatory framework" as described in SECY-20-0110. The petitioners assert that this framework, used by both NRC staff and Holtec, introduces unacceptable levels of subjectivity into the regulatory process, particularly in the selection of rules applicable to a plant transitioning from decommissioning back to full operations.

I agree that Alan Blind to be the petition point of contact.

Printed Name Dianne M. Ebert Signature Dianne M. Ebert
Executed In Accordance with 10CFR 2.304(d)

Address 80021 Ramblewood Dr., Covert, MI 49043

Phone Number 708 927 6190 Date Sept. 5, 2024

Appendix A Declaration: Mary and Chuck Huffman

For: Federal Register Notice (FRN) Docket No. 50-255; NRC-2024-0130

In the matter of petition, filed under 10 CFR 2.309, seeking a public hearing regarding the proposed license amendments for the Palisades Nuclear Plant, specifically concerning Holtec International's plans to return the plant to operational status after decommissioning.

Under penalty of perjury I, Chuck + Mary Huffman, declare as follows:

1. I am a listed petitioner for the subject matter, and have read and am knowledgeable of the contents in the petition for the matter above, prepared by Alan Blind
2. I own a home and am a part time resident within the Palisades Emergency Planning Zone (EPZ) (a ten mile radius of the Plant Center Line), and am directly impacted by any potential nuclear incidents at the plant. Given the proximity and associated risks—including radiological releases, contamination, and evacuation—the petitioners have a vested interest in ensuring that the highest standards of safety and regulatory oversight are maintained.
3. I am concerned about the subjectivity being used by Holtec and NRC, without review and approval, to select regulations for the purpose of reviewing License Amendment Requests and used as source documents for NRC inspection of in progress Palisades restart activities. In particular:

The petition challenges the reliance on the "existing regulatory framework" as described in SECY-20-0110. The petitioners assert that this framework, used by both NRC staff and Holtec, introduces unacceptable levels of subjectivity into the regulatory process, particularly in the selection of rules applicable to a plant transitioning from decommissioning back to full operations.

I agree that Alan Blind to be the petition point of contact.

Printed Name Chuck Huffman Signature Chuck Huffman
Mary Huffman Signature Mary Huffman
 Executed In Accordance with 10CFR 2.304(d)

Address 41 E 54th St, Indianapolis, IN 46220

Phone Number 317-649-3625 Date 9/5/2024
317-714-8753

Appendix B: Other Applicable Petitions:

August 19, 2024, Alan Blind: §2.206 Petition for Action; Use of 10CFR 50.59;

I respectfully request that the NRC require Holtec to submit a new Final Safety Analysis Report (FSAR) and obtain NRC approval before NRC conducting any inspections during the Palisades system restoration period that necessitate reference to the Palisades licensing basis.

At a minimum, this new FSAR should include updates to NUREG-0820, the Systematic Evaluation Process (SEP), to reflect regulatory and operating experience changes starting from June 13, 2012—the date when Entergy submitted its 10 CFR 50.82(a)(1) certifications for the permanent cessation of power operations, and the SEP licensing basis was no longer in effect.

I contend that an update of changes since June 13, 2014, is the minimum required to meet NRC regulations, however, NRC staff may determine that other SEP issues need to be updated by Holtec to ensure ongoing public health and safety (for example, the 31 SEP issues found to need additional licensee basis, due to not meeting GDC).

Holtec has proposed using the 10 CFR 50.59 process to evaluate a new FSAR. However, I assert that current NRC regulations and the prior submittal of 50.82 certifications, which ended the operating plant's design basis/FSAR, do not permit the use of the 50.59 process to create a new replacement FSAR. To date, the NRC staff has not addressed, in public, if it approves of Holtec's proposed method for developing a new FSAR.

I assert that Holtec does not have an NRC-approved Final Safety Analysis Report (FSAR) for the period of system restoration, for use by NRC inspectors, and for Holtec

S use to evaluate acceptability of designs and work in progress. The original FSAR ceased to exist when Entergy submitted its 10 CFR 50.82 certifications.

Furthermore, in Holtec's Request for Exemption from Certain Termination of License Requirements under 10 CFR 50.82, particularly the clause stating that "the exemption will not present an undue risk to public health and safety", Holtec said an element to meet this clause was for the NRC to inspect its "return to service" plans. This is problematic for several reasons, 1) Holtec is placing the NRC into a role to ensure there are no "undue risk to public health and safety", 2) Holtec has not agreed to share the start up plans with the NRC, and 3) NRC inspectors will not have an NRC approved FSAR to use as a reference to evaluate system restart plan's adequacy and compliance to an approve design basis.

Before the Holtec FSAR can be utilized by NRC inspectors in any ongoing design basis-related inspections that need design basis input, inspectors must first have an NRC approved FSAR. Without an NRC-approved FSAR, inspectors will lack a validated basis for evaluating whether safety-related structures, systems, and components (SSCs) meet design basis requirements. Effectively, under the Holtec proposal, Holtec will define and approve the design basis without prior NRC review, which is unacceptable to ensure public health and safety.

August 19, 2024, Alan Blind: §2.206 Petition for Action, Quality Assurance;

I respectfully request that the NRC order Holtec to stop work on safety-related SSCs intended to be part of the "Operating" Quality Assurance Program.

Holtec may restart work, after NRC approval of its Quality Assurance Manual for the period of system restoration. I assert that Holtec does not have an NRC-approved period of system restoration QAPD. The operating QAPD ceased to exist when Entergy submitted its 50.82 certifications. Furthermore, the NRC's evaluation of Holtec's Request for Exemption from Certain Termination of License Requirements under 10 CFR 50.82, specifically the clause stating

that "the exemption will not present an undue risk to public health and safety," relies heavily on the assurance that period of system restoration activities are properly completed and documented according to an NRC-approved Operating QAPD.

My concerns focus particularly on the possibility that some of Holtec's ongoing period of system restoration activities may involve Quality Control points that cannot be adequately verified after the fact, and most likely, not witnessed and documented by NRC inspectors. This issue is further complicated by the suspension of record retention requirements, initially enabled by Entergy, with no public information on when or if these requirements will be reinstated for period of system restoration safety-related SSCs (Structures, Systems, and Components).

I recognize, Holtec is the owner of the decommission status, Palisades Plant, and can take whatever actions it desires, on previous operating safety related SSCs, including cutting up the SSC into small bits, but as stated above, those actions should be considered unreliable by NRC reviewers, to support Holtec's "do no harm" arguments in it Specific Exception Request, for retraction of the 50.82 shutdown restrictions.

Publicly available documents indicate that the NRC has not approved Holtec's proposed use of the decommissioning Quality Assurance Program Description (QAPD) for safety-related SSC activities during the period of system restoration. My concern is that Holtec may be performing restoration period activities on safety-related SSCs outside a supporting period of system restoration QAPD

July 1, 2024, Alan Blind, Docket No. PRM-50-125, § 2.802 Petition for rulemaking.

".....request that the NRC revise its regulations at 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," and 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," to include a Commission-approved

process for returning a decommissioned plant to operational status....”