INDEXES TO
NUCLEAR REGULATORY
COMMISSION ISSUANCES

July – September 1994

U.S. NUCLEAR REGULATORY COMMISSION

Prepared by the
Division of Freedom of Information and Publications Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555–0001
(301/415-6844)
DISCLAIMER

This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, make any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.
DISCLAIMER

 Portions of this document may be illegible in electronic image products. Images are produced from the best available original document.
Foreword

Digests and indexes for issuances of the Commission (CLI), the Atomic Safety and Licensing Board Panel (LBP), the Administrative Law Judges (ALJ), the Directors' Decisions (DD), and the Denials of Petitions for Rulemaking (DPRM) are presented in this document. These digests and indexes are intended to serve as a guide to the issuances.

Information elements common to the cases heard and ruled upon are:

Case name (owner(s) of facility)
Full text reference (volume and pagination)
Issuance number
Issues raised by appellants
Legal citations (cases, regulations, and statutes)
Name of facility, Docket number
Subject matter of issues and/or rulings
Type of hearing (for construction permit, operating license, etc.)
Type of issuance (memorandum, order, decision, etc.).

These information elements are displayed in one or more of five separate formats arranged as follows:

1. Case Name Index

The case name index is an alphabetical arrangement of the case names of the issuances. Each case name is followed by the type of hearing, the type of issuance, docket number, issuance number, and full text reference.

2. Digests and Headers

The headers and digests are presented in issuance number order as follows: the Commission (CLI), the Atomic Safety and Licensing Board Panel (LBP), the Administrative Law Judge (ALJ), the Directors' Decisions (DD), and the Denials of Petitions for Rulemaking (DPRM).

The header identifies the issuance by issuance number, case name, facility name, docket number, type of hearing, date of issuance, and type of issuance.

The digest is a brief narrative of an issue followed by the resolution of the issue and any legal references used in resolving the issue. If a given issuance covers more than one issue, then separate digests are used for each issue and are designated alphabetically.
3. Legal Citations Index

This index is divided into four parts and consists of alphabetical or alphanumerical arrangements of Cases, Regulations, Statutes, and Others. These citations are listed as given in the issuances. Changes in regulations and statutes may have occurred to cause changes in the number or name and/or applicability of the citation. It is therefore important to consider the date of the issuance.

The references to cases, regulations, statutes, and others are generally followed by phrases that show the application of the citation in the particular issuance. These phrases are followed by the issuance number and the full text reference.

4. Subject Index

Subject words and/or phrases, arranged alphabetically, indicate the issues and subjects covered in the issuances. The subject headings are followed by phrases that give specific information about the subject, as discussed in the issuances being indexed. These phrases are followed by the issuance number and the full text reference.

5. Facility Index

The index consists of an alphabetical arrangement of facility names from the issuance. The name is followed by docket number, type of hearing, date, type of issuance, issuance number, and full text reference.
CASE NAME INDEX

ARIZONA PUBLIC SERVICE COMPANY
REQUEST FOR ACTION; DIRECTOR'S DECISION UNDER 10 C.F.R. § 2.206; Docket Nos. 50-528, 50-529, 50-530; DD-94-8, 40 NRC 127 (1994)

CHEMETRON CORPORATION
MATERIALS LICENSE AMENDMENT; MEMORANDUM AND ORDER (Request for Hearing); Docket No. 40-8724-MLA (ASLBP No. 94-695-03-MLA) (Source Material License No. SUB-1357); LBP-94-20, 40 NRC 17 (1994)
MATERIALS LICENSE AMENDMENT; MEMORANDUM AND ORDER (Motion to Dismiss Proceeding); Docket No. 40-8724-MLA (ASLBP No. 94-695-03-MLA) (Source Material License No. SUB-1357); LBP-94-30, 40 NRC 135 (1994)

GEORGIA POWER COMPANY, et al.
OPERATING LICENSE AMENDMENT; MEMORANDUM AND ORDER (Motion to Accept Additional Factual Basis); Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLBP No. 93-671-01-OLA-3) (Re: License Amendment; Transfer to Southern Nuclear); LBP-94-22, 40 NRC 37 (1994)
OPERATING LICENSE AMENDMENT; MEMORANDUM AND ORDER (Deposition of Mr. Bill Shipman); Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLBP No. 93-671-01-OLA-3) (Re: License Amendment; Transfer to Southern Nuclear); LBP-94-24, 40 NRC 83 (1994)
OPERATING LICENSE AMENDMENT; MEMORANDUM AND ORDER (Staff Responses to Intervener’s First Request for Admissions, Second Set of Interrogatories); Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLBP No. 93-671-01-OLA-3) (Re: License Amendment; Transfer to Southern Nuclear); LBP-94-26, 40 NRC 93 (1994)
OPERATING LICENSE AMENDMENT; MEMORANDUM AND ORDER (Denying Motion to Accept Additional Factual Basis); Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLBP No. 93-671-01-OLA-3) (Re: License Amendment; Transfer to Southern Nuclear); LBP-94-27, 40 NRC 103 (1994)
OPERATING LICENSE AMENDMENT; MEMORANDUM AND ORDER (Motion for Reconsideration: Admissions; Second Order); Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLBP No. 93-671-01-OLA-3) (Re: License Amendment; Transfer to Southern Nuclear); LBP-94-31, 40 NRC 137 (1994)

GULF STATES UTILITIES COMPANY, et al.
OPERATING LICENSE AMENDMENT; MEMORANDUM AND ORDER; Docket No. 50-458-OLA; CLI-94-10, 40 NRC 43 (1994)

INDIANA REGIONAL CANCER CENTER
ENFORCEMENT; MEMORANDUM AND ORDER (Ruling on Prediscovery Dispositive Motions); Docket No. 030-30485-EA (ASLBP No. 94-685-02-EA) (EA 93-284) (Order Modifying and Suspending Byproduct Material License No. 37-28179-01); LBP-94-21, 40 NRC 22 (1994)

INDIANA UNIVERSITY SCHOOL OF MEDICINE
ENFORCEMENT; MEMORANDUM AND ORDER (Approving Settlement Agreement and Terminating Proceeding); Docket No. 030-09792-CivP (ASLBP No. 94-689-02-CivP) (EA 93-111) (Byproduct Material License No. 13-02752-08); LBP-94-28, 40 NRC 117 (1994)

NUCLEAR SUPPORT SERVICES, INC.
ENFORCEMENT; MEMORANDUM AND ORDER (Approving Settlement Agreement and Terminating Proceeding); Docket No. EA 93-236 (ASLBP No. 94-692-05-EA); LBP-94-25, 40 NRC 88 (1994)
CASE NAME INDEX

ONCOLOGY SERVICES CORPORATION
ENFORCEMENT; MEMORANDUM AND ORDER (Dismissing Proceeding); Docket No. 030-31765-EA (ASLBP No. 93-674-03-EA) (EA 93-006) (Order Suspending Byproduct Material License No. 37-28540-01); LBP-94-29, 40 NRC 123 (1994)

ROBERT C. DAILEY
ENFORCEMENT; MEMORANDUM AND ORDER (Approving Settlement Agreement and Terminating Proceeding); Docket No. IA 94-003 (ASLBP No. 94-691-04-EA); LBP-94-25, 40 NRC 88 (1994)

SACRAMENTO MUNICIPAL UTILITY DISTRICT
DECOMMISSIONING; ORDER; Docket No. 50-312-DCOM (Decommissioning Plan); CLI-94-14, 40 NRC 133 (1994)
DECOMMISSIONING REMAND; MEMORANDUM AND ORDER (Terminating Proceeding); Docket No. 50-312-DCOM-R (ASLBP No. 93-677-01-DCOM-R) (Decommissioning Plan) (Facility Operating License No. DPR-54); LBP-94-23, 40 NRC 81 (1994)

SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS
ENFORCEMENT; ORDER (Decontamination and Decommissioning Funding); CLI-94-9, 40 NRC 1 (1994)
ENFORCEMENT; ORDER DENYING PETITION FOR INTERLOCUTORY REVIEW AND/OR MOTION FOR DIRECTED CERTIFICATION; Docket No. 40-8027-EA (Decontamination and Decommissioning Funding); CLI-94-11, 40 NRC 55 (1994)
ENFORCEMENT; MEMORANDUM AND ORDER; Docket No. 40-8027-EA (Decontamination and Decommissioning Funding); CLI-94-12, 40 NRC 64 (1994); CLI-94-13, 40 NRC 78 (1994)
ENFORCEMENT; MEMORANDUM AND ORDER (Granting Intervention Motion); Docket No. 40-8027-EA (ASLBP No. 94-684-01-EA) (Source Material License No. SUB-1010) (Decontamination and Decommissioning Funding); LBP-94-19, 40 NRC 9 (1994)
ORDER

A The Commission denies General Atomics' motion seeking to stay discovery in this proceeding until (1) the Commission determines whether it will grant General Atomics' Petition for Review of LBP-94-17 and/or Motion for Directed Certification; and (2) assuming that the Commission grants the Petition/Motion, the Commission determines with finality the jurisdictional issues raised in General Atomics' previously filed Motion for Summary Disposition or for an Order of Dismissal.

B Where a party files a stay motion with the Commission pursuant to 10 C.F.R. §2.730 (which contains no standards by which to decide stay motions), the Commission will turn for guidance to the general stay standards in section 2.788.

C Interlocutory appeals or petitions to the Commission are not devices for delaying or halting licensing board proceedings. The stringent four-part standard set forth in section 2.788(e) makes it difficult for a party to obtain a stay of any aspect of a licensing board proceeding. Therefore, only in unusual cases should the normal discovery and other processes be delayed pending the outcome of an appeal or petition to the Commission. Cf. 10 C.F.R. §2.730(g).


E Were a party subjected to overly burdensome discovery, the licensing board has full authority to prevent or modify unreasonable discovery demands. 10 C.F.R. §2.740(c).

F Under normal circumstances, motions for a stay of discovery should be filed with the licensing board rather than the Commission. See 10 C.F.R. §2.730(a).

G The Commission has the authority to exercise its "inherent supervisory powers over adjudicatory proceedings" and to address the stay motion itself, rather than either dismiss it or refer it to the licensing board. Ohio Edison Co. (Perry Nuclear Power Plant, Unit 1), CLI-91-15, 34 NRC 269, 271 (1991), reconsideration denied, CLI-92-6, 35 NRC 86 (1992).

H Irreparable injury is the most important of the four factors set forth in section 2.788(e). Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), CLI-90-3, 31 NRC 219, 258 (1990), aff'd on other grounds sub nom. Massachusetts v. NRC, 924 F.2d 311 (D.C. Cir.), cert. denied, 112 S. Ct. 275 (1991). Consequently, where a movant (as here) fails to show irreparable harm, then it must make an overwhelming showing that it is likely to succeed on the merits. See, e.g., Kerr-McGee Chemical Corp. (West Chicago Rare Earths Facility), ALAB-928, 31 NRC 263, 269 (1990) (absent a showing of irreparable harm, movant must demonstrate that the reversal of the licensing board is a "virtual certainty").
The importance and novelty of significant jurisdictional issues of first impression are, in and of themselves, insufficient to justify a stay. Cf. Kerr-McGee Chemical Corp. (West Chicago Rare Earths Facility), ALAB-928, 31 NRC 263, 270 (1990).

Where the party seeking a stay has failed to meet its burden on the two most important factors (irreparable injury and likelihood of success on the merits), the Commission need not give lengthy consideration to the other two factors (public interest and harm to other parties). Kerr-McGee Chemical Corp. (West Chicago Rare Earths Facility), ALAB-928, 31 NRC 263, 270 (1990).

The mere possibility that a stay would save other parties from incurring significant litigation expenses is insufficient to offset the movant’s failure to demonstrate irreparable injury and a strong likelihood of success on the merits.

The Commission considers the appeal of a Licensing Board decision, LBP-94-3, 39 NRC 31 (1994), which granted a request for intervention and for hearing on two applications submitted by the Gulf States Utilities Company (GSU). In one application, GSU sought to transfer its operating control over the River Bend nuclear power plant to a new licensee. GSU’s second application sought a license amendment to reflect a change in the ownership of GSU. The Commission denies the appeal and affirms the Licensing Board’s order, finding that the Petitioner has met the threshold requirements for standing and an admissible contention.

To determine whether a petitioner has alleged the requisite interest to intervene, the Commission applies judicial concepts of standing.

For standing, a petitioner must allege a concrete and particularized injury that is fairly traceable to the challenged action and likely to be redressed by a favorable decision.

In the absence of a clear misapplication of the facts or misunderstanding of law, the Licensing Board’s judgment at the pleading stage that a party has crossed the standing threshold is entitled to substantial deference.

The Atomic Energy Act authorizes the Commission to accord protection from radiological injury to both health and property interests. See AEA, §§ 103b, 161b, 42 U.S.C. §§ 2133(b), 2201(b).

Commission regulations recognize that underfunding can affect plant safety. Under 10 C.F.R. § 50.33(f)(2), applicants — with the exception of electric utilities — seeking to operate a facility must demonstrate that they possess or have reasonable assurance of obtaining the funds necessary to cover estimated operation costs for the period of the license. Behind the financial qualifications rule is a safety rationale.

Commission regulations mandate that a contention include a specific statement of the issue of law or fact to be raised or controverted, a brief explanation of the bases of the contention, and a concise statement of the alleged facts or expert opinion that support the contention, together with references to those specific sources and document on which the petitioner intends to rely to prove the contention. The petitioner must also demonstrate that a genuine dispute exists with the applicant on a material issue of law or fact.

At the contention filing stage the factual support necessary to show that a genuine dispute exists need not be in formal evidentiary form, nor be as strong as that necessary to withstand a summary disposition motion.

General Atomics (“GA”) filed with the Commission a pleading styled “Petition for Review and/or Motion for Directed Certification” of an interlocutory order (LBP-94-17, 39 NRC 359 (1994)) issued by the Licensing Board. In that pleading, GA challenged the Licensing Board’s denial of GA’s motion seeking either an order granting summary disposition in its favor regarding all issues in this proceeding or an order of dismissal. The issue on appeal is whether, pursuant to 10 C.F.R. § 2.786(g), the Commission should exercise its discretion to review the Licensing Board’s interlocutory order. The Commission denies GA’s Petition on the ground that it fails to satisfy either of the two conditions for interlocutory review set forth in 10 C.F.R. § 2.786(g).
The Commission in this proceeding treats a challenge to an interlocutory order as a Petition for Review under 10 C.F.R. § 2.786 rather than as a Motion for Directed Certification under 10 C.F.R. §§ 2.718(i) and 2.730(f).

The Commission has a longstanding policy disfavoring interlocutory review (other than appeals pursuant to 10 C.F.R. § 2.714a), and will undertake such review only in the most compelling circumstances.

A licensing board decision refusing to dismiss a party from a proceeding does not, without more, constitute a compelling circumstance justifying interlocutory review.

The Commission, under its present appellate system, has entertained petitions for review of an otherwise interlocutory order — akin to a motion for directed certification — if the petitioner can satisfy one of the criteria under section 2.786(g).

Section 2.786(g) of the Commission's regulations allows interlocutory review only where the question presented either: 

1. Threatens the party adversely affected by it with immediate and serious irreparable impact which, as a practical matter, could not be alleviated through a petition for review of the presiding officer's final decision; or
2. Affects the basic structure of the proceeding in a pervasive or unusual manner.


It is well established in Commission jurisprudence that the mere commitment of resources to a hearing that may later prove to have been unnecessary does not constitute sufficient grounds for an interlocutory review of a licensing board order.

A party may not obtain interlocutory review merely by asserting potential delay and increased expense attributable to an allegedly erroneous ruling by the licensing board.

Mere generalized representations by counsel or unsubstantiated assertions regarding "immediate and serious irreparable impact" are insufficient to satisfy movant's burden of proof.

The Commission sees no "substantial harm" arising from a party's continued involvement in a proceeding until the licensing board can resolve factual questions pertinent to the Commission's jurisdiction.

Although a definitive ruling by the licensing board that the Commission actually has jurisdiction might rise to the level of a pervasive or unusual effect upon the nature of the proceeding, a preliminary ruling that mere factual development is necessary does not rise to that level.

The fact that an appealed ruling touches on a jurisdictional issue does not, in and of itself, mandate interlocutory review.

The mere issuance of a ruling which is important or novel does not, without more, change the basic structure of a proceeding, and thereby justify interlocutory review.

In an enforcement proceeding involving funding for decontamination and decommissioning of the Sequoyah Fuels Facility near Gore, Oklahoma, the Commission denies appeals of the Atomic Safety and Licensing Board’s orders LBP-94-5, 39 NRC 54 (1994), and LBP-94-8, 39 NRC 116 (1994), which granted intervention to a petitioner who favors the enforcement action. The Commission affirms LBP-94-5 which granted standing and affirms LBP-94-8 only to the extent that it relied upon this finding of standing.

The Commission has authority to define the scope of public participation in its proceedings beyond that which is required by statute. Consistent with this authority the Commission permits participation by those who can show that they have a cognizable interest that may be adversely affected if the proceeding has one outcome rather than another, including those who favor an enforcement action.

Intervention by interested persons who support an enforcement action does not diminish the agency's discretion in initiating enforcement proceedings because the Commission need not hold a hearing on whether another path should have been taken. The Commission may lawfully limit a hearing to consideration of the remedy or sanction proposed in the order.

In enforcement proceedings, settlements between the Staff and the licensee, once a matter has been noticed for hearing, are subject to review by the presiding officer. 10 C.F.R. § 2.203. Thus, once an enforcement order has been set for hearing at a licensee's request, the NRC Staff no longer has untrammeled discretion to offer or accept a compromise or settlement.
At the heart of the standing inquiry is whether the petitioner has alleged such a personal stake in the outcome of the controversy as to demonstrate that a concrete adverseness exists which will sharpen the presentation of issues. To demonstrate such a "personal stake," the Commission applies contemporaneous judicial concepts of standing. Accordingly, a petitioner must (1) allege an "injury in fact" that is (2) fairly traceable to the challenged action and (3) is likely to be redressed by a favorable decision.

The alleged injury, which may be either actual or threatened, must be both concrete and particularized, not "conjectural" or "hypothetical." As a result, standing has been denied when the threat of injury is too speculative.

An organization seeking representational standing on behalf of its members may meet the "injury-in-fact" requirement by demonstrating that at least one of its members, who has authorized the organization to represent his or her interest, will be injured by the possible outcome of the proceeding.

To meet the "injury in fact" requirement the petitioner need only show a realistic threat of sustaining a direct injury to the petitioner as a result of the challenged action. It must be demonstrated that the injury is fairly traceable to the proposed action. Such a determination is not dependent on whether the cause of the injury flows directly from the challenged action, but whether the chain of causation is plausible.

It must be likely as opposed to merely speculative that the injury will be redressed by a favorable decision.

CLI-94-13 SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS (Gore, Oklahoma Site), Docket No. 40-8027-EA (Decontamination and Decommissioning Funding); ENFORCEMENT; August 23, 1994; MEMORANDUM AND ORDER

A In an enforcement proceeding involving funding for decontamination and decommissioning of the Sequoyah Fuels Facility near Gore, Oklahoma, the Commission denies appeals of LBP-94-19, 40 NRC 9 (1994), in which the Atomic Safety and Licensing Board granted intervention to the Cherokee Nation. Relying on the analysis contained in a companion decision, CLI-94-12, 40 NRC 64 (1994), the Commission finds that otherwise qualified petitioners are not barred from participation in hearings simply because they seek to support an enforcement order.

CLI-94-14 SACRAMENTO MUNICIPAL UTILITY DISTRICT (Rancho Seco Nuclear Generating Station), Docket No. 50-312-DCOM (Decommissioning Plan); DECOMMISSIONING; September 2, 1994; ORDER

A The Commission lifts its earlier restriction on the Nuclear Regulatory Commission Staff's ability to issue a decommissioning order, given that no issue remains for adjudication and the Licensing Board terminated the proceeding.
DIGESTS
ISSUANCES OF THE ATOMIC SAFETY AND LICENSING BOARDS

LBP-94-19  SEQUOYAH FUELS CORPORATION and GENERAL ATOMICS (Gore, Oklahoma Site), Docket No. 40-8027-EA (ASLBP No. 94-684-01-EA) (Source Material License No. SUB-1010) (Decontamination and Decommissioning Funding); ENFORCEMENT; July 7, 1994; MEMORANDUM AND ORDER (Granting Intervention Motion)

A In this proceeding concerning an NRC Staff enforcement order issued in accordance with 10 C.F.R. § 2.202, the Licensing Board concludes that a Native American tribe wishing to participate in the proceeding to support the Staff's enforcement order has established its standing and presented two litigable contentions.

B In order to grant an intervenor party status in a proceeding, the presiding officer must find that the petitioner meets the contemporaneous judicial concepts of standing. This requires that the intervenor establish that it will suffer injury in fact relative to its interests in the proceeding and that those alleged interests are within the zone of interests protected by the statutes and regulations under which the petitioner seeks to participate in the proceeding. See, e.g., Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Unit 1), CLI-93-21, 38 NRC 87, 92 (1993).

C To represent the interests of its members, a Native American tribe must identify at least one member who will be injured and obtain authorization to represent that individual. See, e.g., Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9 NRC 377, 390-96 (1979).

D Longstanding Commission practice suggests that the benefit of the doubt should be given to the potential intervenor in order to obviate dismissal of an intervention petition because of inarticulate draftsmanship or procedural pleading defects. See, e.g., Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2), ALAB-146, 6 AEC 631, 633-34 (1973). See also LBP-94-8, 39 NRC 116, 120 & n.7 (1994), appeals pending.

LBP-94-20  CHEMETRON CORPORATION (Bert Avenue, Harvard Avenue, and McGean-Rohco Sites, Newburgh Heights and Cuyahoga Heights, Ohio), Docket No. 40-8724-MLA (ASLBP No. 94-695-03-MLA) (Source Material License No. SUB-1357); MATERIALS LICENSE AMENDMENT; July 7, 1994; MEMORANDUM AND ORDER (Request for Hearing)

LBP-94-21  INDIANA REGIONAL CANCER CENTER, Docket No. 030-30485-EA (ASLBP No. 94-685-02-EA) (EA 93-284) (Order Modifying and Suspending Byproduct Material License No. 37-28179-01); ENFORCEMENT; July 12, 1994; MEMORANDUM AND ORDER (Ruling on Prediscovery Dispositive Motions)

A In this license suspension and modification enforcement proceeding, the Licensing Board rules on prediscovery dispositive motions regarding ten issues specified by the parties for litigation.

B Under Atomic Energy Act provisions such as subsections (b) and (i) of section 161, 42 U.S.C. § 2201(b), (i), the agency's authority to protect the public health and safety is uniquely wide-ranging. That, however, is not the same as saying that it is unlimited. In exercising that authority, including its prerogative to bring enforcement actions, the agency is subject to some restraints. See, e.g., Hurley Medical Center (One Hurley Plaza, Flint, Michigan), ALJ-87-2, 25 NRC 219, 236-37 & n.5 (1987) (NRC Staff cannot apply a comparative-performance standard in civil penalty proceedings absent fair notice to licensees about the parameters of that standard). One of those constraints is the requirement of constitutional due process.

C A party responding to an agency enforcement complaint has been accorded due process so long as the charges against it are understandable and it is afforded a full and fair opportunity to meet those charges. See Citizens State Bank v. FDIC, 751 F.2d 209, 213 (8th Cir. 1984). Put somewhat differently, "[p]leadings in administrative proceedings are not judged by standards applied to an indictment at common
DIGESTS
ISSUANCES OF THE ATOMIC SAFETY AND LICENSING BOARDS

law; but are treated more like civil pleadings where the concern is with notice . . . .” Id. (quoting Aloha Airlines, Inc. v. CAB, 598 F.2d 250, 262 (D.C. Cir. 1979)).

D When there is no claim of a lack of understanding regarding the nature of the charges in an NRC Staff enforcement order, the fact that the validity of the Staff’s assertions have not been litigated is no reason to preclude the Staff from utilizing those charges as a basis for the order. The adjudicatory proceeding instituted pursuant to 10 C.F.R. §2.202 affords those who are adversely affected by the order with an opportunity to contest each of the charges that make up the Staff’s enforcement determination, an opportunity intended to protect their due process rights. The “unlitigated” nature of the Staff’s allegations in an enforcement order thus is not a constitutional due process deficiency that bars Staff reliance on those allegations as a component of the enforcement order.

E Issue and claim preclusion principles (i.e., res judicata and collateral estoppel) are applicable in NRC adjudicatory proceedings. See, e.g., Ohio Edison Co. (Perry Nuclear Power Plant, Unit 1), LBP-92-32, 36 NRC 269, 283 & n.27 (1992) (citing cases), petitions for review pending, Nos. 92-1665, 93-1665, 93-1672, 93-1673 (D.C. Cir.).

F The fact that the NRC Staff’s charges in support of an enforcement order may be “hearsay” allegations does not provide sufficient reason to dismiss those claims ab initio. See Oncology Services Corp., LBP-93-20, 38 NRC 130, 135 n.2 (1993) (hearsay evidence generally admissible in administrative hearing if reliable, relevant, and material). Rather, so long as those allegations are in dispute, the validity and sufficiency of any “hearsay” information upon which they are based generally is a matter to be tested in the context of an evidentiary hearing in which the Staff must provide adequate probative evidence to carry its burden of proof.

G One or more of the bases put forth by the NRC Staff as support for an enforcement order may be subject to dismissal if it is established they lack a sufficient nexus to the regulated activities that are the focus of the Staff’s enforcement action.

H In a proceeding regarding an NRC Staff enforcement order, consistent with the analogous agency rules regarding contentions filed by intervenors, see 10 C.F.R. §2.714(d)(2)(ii), if it can be established that there is no set of facts that would entitle a party to relief relative to a proposed issue, then dismissal of that issue is appropriate. See Oncology Services Corp., LBP-94-2, 39 NRC 11, 23 n.8 (1994).

I As is evident from the Commission’s enforcement policy statement, regulatory requirements — including license conditions — have varying degrees of public health and safety significance. See 10 C.F.R. Part 2, App. C, §IV & n.5. Consequently, as part of the enforcement process, the relative importance of each purported violation is evaluated, which includes taking a measure of its technical and regulatory significance, as well as considering whether the violation is repetitive or willful. See id. §§ IV.B, IV.C. Although, in contrast to civil penalty actions, there generally is no specification of a “severity level” for the violations identified in an enforcement order imposing a license termination, suspension, or modification, see id. § VI.C, this evaluative process nonetheless is utilized to determine the type and severity of the corrective action taken in the enforcement order.

J In making a determination about whether a license suspension or modification order should be sustained, a presiding officer must undertake an evaluative process that may involve assessing, among other things, whether the bases assigned in the order support it both in terms of the type and duration of the enforcement action. And, just as with the NRC Staff’s initial determination about imposition of the enforcement order, a relevant factor may be the public health and safety significance of the bases specified in the order.

K As the Commission recently noted, “the choice of sanction is quintessentially a matter of the agency’s sound discretion.” Advanced Medical Systems, Inc. (One Factory Row, Geneva, Ohio 44041), CLI-94-6, 39 NRC 285, 312 (1994) (footnote omitted). In this regard, a presiding officer’s review of an NRC Staff enforcement action would be limited to whether the Staff’s choice of sanction constituted an abuse of that discretion.

LBP-94-22 GEORGIA POWER COMPANY, et al. (Vogtle Electric Generating Plant, Units 1 and 2), Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLB No. 93-671-01-OLA-3) (Re: License Amendment; Transfer to Southern Nuclear); OPERATING LICENSE AMENDMENT; July 28, 1994; MEMORANDUM AND ORDER (Motion to Accept Additional Factual Basis)
A The Licensing Board determines that an Intervenor may move to admit into the proceeding a new basis for an already admitted contention. When it does so, the requirements for a late-filed contention are not applicable, but the Intervenor must show that it is timely to consider the new basis, in light of its seriousness and of the timeliness with which it has been raised. The Licensing Board also permitted Intervenor to file a reply to Applicant’s response to his motion to add a new basis to his contention.

B Once a contention has been admitted, Intervenor may litigate a new basis for the admitted contention (falling within the scope of the contention) without meeting the five-pronged test for a late-filed contention. The test for admitting the new basis is whether it is timely to consider the new basis, in light of its seriousness and of the timeliness with which it has been raised. The more serious the safety implications of the proposed new basis, the less important delay in presenting the basis.

C There is no regulatory requirement that an intervenor supply all the bases known at the time he files a contention. What is required is the filing of bases that the intervenor intends to rely on. 10 C.F.R. §2.714(b)(2)(ii).

D Intervenor may reply to Applicant’s Response to Intervenors’ Motion for a new basis for its contention. In that reply, Intervenor should demonstrate, with particularity: (1) that he understands the answers that have been filed and that (despite those answers) there is an important, genuine issue of fact that Georgia Power has materially misled the Staff of the Commission concerning the public safety and health, and (2) that he did not unnecessarily delay the filing of this new basis for its contention.

LBP-94-23 SACRAMENTO MUNICIPAL UTILITY DISTRICT (Rancho Seco Nuclear Generating Station), Docket No. 50-312-DCOM-R (ASLBP No. 93-677-01-DCOM-R) (Decommissioning Plan) (Facility Operating License No. DPR-54); DECOMMISSIONING REMAND; August 11, 1994; MEMORANDUM AND ORDER (Terminating Proceeding)

A The Licensing Board, in response to a notice of withdrawal with prejudice of the only intervenor in the proceeding, grants the withdrawal and terminates the proceeding.

LBP-94-24 GEORGIA POWER COMPANY, et al. (Vogtle Electric Generating Plant, Units 1 and 2), Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLBP No. 93-671-01-OLA-3) (Re: License Amendment; Transfer to Southern Nuclear); OPERATING LICENSE AMENDMENT; August 18, 1994; MEMORANDUM AND ORDER (Deposition of Mr. Bill Shipman)

A This Memorandum and Order weighs whether or not to order the deposition of a person who is seriously ill. The Board declined to order the deposition. It determined that Intervenor had failed to demonstrate that the benefit of the proposed discovery outweighs the burden, given the importance of the issues at stake in the litigation and the importance of the proposed discovery in resolving the issues.

B However, the Board also noticed that the proposed deponent was willing to be deposed. It therefore established conditions under which a voluntary deposition might be taken.

C Intervenor has the burden of demonstrating that the benefit of a deposition of a seriously ill person outweighs the burden, given the importance of the issues at stake in the litigation and the importance of the proposed discovery in resolving the issues.

D The lawyer of an ill individual sought as subject of a deposition may not assert that the deposition would impose an undue burden unless the proposed subject seeks to be protected or there is some reason to question the rationality behind the person’s willingness to be deposed.

E The Licensing Board establishes conditions under which a voluntary agreement may be reached concerning the deposition of a seriously ill individual.

LBP-94-25 NUCLEAR SUPPORT SERVICES, INC. (Order Requiring the Removal of an Individual from NRC-Licensed or Regulated Activities and Order Directing Review of Personnel Security Files (Effective Immediately)), Docket No. EA 93-236 (ASLBP No. 94-692-05-EA); ROBERT C. DAILEY (Order Prohibiting Involvement in Certain NRC-Licensed or Regulated Activities (Effective Immediately)), Docket No. IA 94-003 (ASLBP No. 94-691-04-EA); ENFORCEMENT; August 18, 1994; MEMORANDUM AND ORDER (Approving Settlement Agreement and Terminating Proceeding)

A The Licensing Board grants a joint motion of the parties to approve a settlement agreement, approves the agreement, and terminates the proceeding.

LBP-94-26 GEORGIA POWER COMPANY, et al. (Vogtle Electric Generating Plant, Units 1 and 2), Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLBP No. 93-671-01-OLA-3) (Re: License Amendment; Transfer
DIGESTS
ISSUANCES OF THE ATOMIC SAFETY AND LICENSING BOARDS

to Southern Nuclear); OPERATING LICENSE AMENDMENT; August 22, 1994; MEMORANDUM AND ORDER (Staff Responses to Intervener’s First Request for Admissions, Second Set of Interrogatories)

A The Board held that the Staff stands on the same footing as any party with respect to requests for admissions. Neither 10 C.F.R. §2.742 nor any other section of the regulations provides for any different treatment of the Staff. The Board also found that Rule 36 of the Federal Rules of Civil Procedure is helpful in interpreting the Commission’s rules concerning admissions. The Board said that the Staff would not be held to its admissions if new information causes it to change its view of the public interest.

B With respect to interrogatories asked of the Staff, the Board held that the Staff is not required to answer interrogatories unless this Licensing Board finds: (1) answers to the interrogatories are necessary to the determination of this case, and (2) answers to the interrogatories are not reasonably attainable from any other source. 10 C.F.R. §2.720(b)(2)(ii); compare 10 C.F.R. §2.740b(a).

C With respect to requests for admissions addressed to the Staff, the Board held that the Staff stands on the same footing as any party. Neither 10 C.F.R. §2.742 nor any other section of the regulations provides for any different treatment of the Staff. The Board also found that Rule 36 of the Federal Rules of Civil Procedure is helpful in interpreting the Commission’s rules concerning admissions. The Board also said that the Staff would not be held to its admissions if new information causes it to change its view of the public interest.

D With respect to interrogatories asked of the Staff, the Board held that the Staff is not required to answer interrogatories unless this Licensing Board finds: (1) answers to the interrogatories are necessary to the determination of this case, and (2) answers to the interrogatories are not reasonably attainable from any other source. 10 C.F.R. §2.720(b)(2)(ii); compare 10 C.F.R. §2.740b(a).

LBP-94-27 GEORGIA POWER COMPANY, et al. (Vogtle Electric Generating Plant, Units 1 and 2), Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLBP No. 93-671-01-OLA-3) (Re: License Amendment; Transfer to Southern Nuclear); OPERATING LICENSE AMENDMENT; August 26, 1994; MEMORANDUM AND ORDER (Denying Motion to Accept Additional Factual Basis)

A The test to be applied to determine whether to admit for litigation a new basis for an admitted contention is “whether the motion [to admit the contention] was timely and whether it presents important information regarding a significant issue.” Consumers Power Co. (Midland Plant, Units 1 and 2), LBP-84-20, 19 NRC 1285, 1296 (1984). Applying this test, Intervener’s motion to admit a new basis for an admitted contention is denied.

B To determine whether technical specifications have been violated, the wording of the specifications must be carefully examined to determine the precise meaning of those specifications.

C The Board rejected an allegation that Licensee had breached a commitment to the NRC that went beyond its technical specifications. The alleged commitment related to keeping the containment hatch closed. Yet opening of the hatch was an open and obvious action and the Board does not accept the argument that the action reflected adversely on the character and competence of the Licensee.

D The following technical issues are discussed: Action statements: technical specifications; Containment equipment hatch: Emergency mode: diesel operation; Emergency power; Limiting conditions of operation: technical specifications; Loss of all electrical power; Operable: definition in technical specifications; Residual heat removal system: operability; Site area emergency.

LBP-94-28 INDIANA UNIVERSITY SCHOOL OF MEDICINE (Indianapolis, Indiana), Docket No. 030-09792-CivP (ASLBP No. 94-689-02-CivP) (EA 93-111) (Byproduct Material License No. 13-02752-08); ENFORCEMENT; August 29, 1994; MEMORANDUM AND ORDER (Approving Settlement Agreement and Terminating Proceeding)

LBP-94-29 ONCOLOGY SERVICES CORPORATION, Docket No. 030-31765-EA (ASLBP No. 93-674-03-EA) (EA 93-006) (Order Suspending Byproduct Material License No. 37-28540-01); ENFORCEMENT; August 31, 1994; MEMORANDUM AND ORDER (Dismissing Proceeding)

LBP-94-30 CHEMETRON CORPORATION (Bert Avenue, Harvard Avenue, and McGeau-Rocheo Sites, Newburgh Heights and Cuyahoga Heights, Ohio), Docket No. 40-8724-MLA (ASLBP No. 94-695-03-MLA) (Source Material License No. SUB-1357); MATERIALS LICENSE AMENDMENT; September 1, 1994; MEMORANDUM AND ORDER (Motion to Dismiss Proceeding)

LBP-94-31 GEORGIA POWER COMPANY, et al. (Vogtle Electric Generating Plant, Units 1 and 2), Docket Nos. 50-424-OLA-3, 50-425-OLA-3 (ASLBP No. 93-671-01-OLA-3) (Re: License Amendment; Transfer
to Southern Nuclear); OPERATING LICENSE AMENDMENT; September 9, 1994; MEMORANDUM AND ORDER (Motion for Reconsideration; Admissions; Second Order)

A The Board denied a Staff motion for reconsideration, setting forth standards for motions for reconsideration. Such motions must be filed within 10 days of the date of issuance of the motion being challenged. The Board also adopted the substantive standard that a motion for leave to reargue or rehear a motion will not be granted unless it appears that there is some decision or some principle of law that would have a controlling effect and that has been overlooked or that there has been a misapprehension of the facts.

B The Board said that it is appropriate to require the Staff to answer requests for admissions concerning the truth of findings in its own report, which contains important collateral facts. It also is appropriate to require the Staff to release segregable facts on which decisions have been made, even if those facts are contained in predecisional documents. Facts that are inextricably intertwined with opinions in predecisional documents need not be released.

C It is appropriate to require the Staff to reveal the names of individuals involved in completing important Staff work. Intervenors may only call as witnesses Staff members who are necessary to their case, but an important step in helping them to determine if testimony is necessary is to find out who was involved. For the same reason, it is appropriate to require the Staff to disclose the name of an individual who may have filed a formal differing professional opinion.

D A stay shall not be granted when the only harm to a party is a strategic loss through complying with a request for admissions. However, a party may delay the need to respond by filing a motion for an extension of time.

E Motions for reconsideration must be filed within 10 days of the date of issuance of a challenged order.

F A motion for leave to reargue or rehear a motion will not be granted unless it appears that there is some decision or some principle of law that would have a controlling effect and that has been overlooked or that there has been a misapprehension of the facts.

G It is appropriate to require the Staff to answer requests for admissions concerning the truth of findings in its own report, which contains important collateral facts.

H It also is appropriate to require the Staff to release segregable facts on which decisions have been made, even if those facts are contained in predecisional documents. Facts that are inextricably intertwined with opinions in predecisional documents need not be released.

I The Staff must respond to interrogatories requesting the names of Staff involved in issuing a key report or involved in issuing a formal differing professional opinion.

J A stay shall not be granted when the only harm to a party is a strategic loss through complying with a request for admissions. However, a party may delay the need to respond by filing a motion for an extension of time.
DIGESTS
ISSUANCES OF DIRECTOR'S DECISION

DD-94-8  ARIZONA PUBLIC SERVICE COMPANY (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), Docket Nos. 50-528, 50-529, 50-530; REQUEST FOR ACTION; August 12, 1994; DIRECTOR'S DECISION UNDER 10 C.F.R. §2.206

A The Director of the Office of Enforcement denies a Petition dated February 1, 1994, filed with the Nuclear Regulatory Commission (NRC) by Thomas J. Saporito, Jr., and supplemented on May 18, 1994, requesting enforcement action pursuant to 10 C.F.R. § 2.206 (Petition). The Petition requested that the NRC: (1) require a show-cause proceeding pursuant to 10 C.F.R. § 2.202 to modify, suspend, or revoke the Licensee's operating licenses for Palo Verde Generating Station; (2) initiate "appropriate actions" to require the Licensee to recognize the Buckeye, Arizona Regional Office of the National Whistleblower Center (Buckeye) as an agency to which Licensee employees may raise safety concerns about operations at Palo Verde without fear of retaliation by the Licensee; (3) request the Licensee to encourage employees at Palo Verde to contact Buckeye to identify safety concerns about operations at Palo Verde to ensure a working environment that is free of hostility and promotes the raising of safety concerns by employees without fear of retaliation; and (4) cause the Licensee to encourage employees at Palo Verde to contact the NRC in the same way as it would Buckeye.

B On May 18, 1994, Petitioner supplemented his Petition and requested that the NRC require Licensee contractors to: (1) provide information regarding filing complaints with the Department of Labor to their employees "as part of their normal employment package"; and (2) properly post the NRC Form 3 in and around the contractor's place of business and site business trailers and offices.

C After an evaluation of the Petition, the Director concluded that Petitioner did not raise any issues that would warrant granting the requested actions.
Advanced Medical Systems, Inc. (One Factory Row, Geneva, Ohio 44041), CLI-94-6, 39 NRC 285, 308 (1994)

- burden on opponent of summary disposition; LBP-94-21, 40 NRC 32 n.3 (1994)
- Advanced Medical Systems, Inc. (One Factory Row, Geneva, Ohio 44041), CLI-94-6, 39 NRC 285, 312 (1994)

- agency discretion in imposition of sanctions; LBP-94-21, 40 NRC 34 n.5 (1994)
- Advanced Medical Systems, Inc. (One Factory Row, Geneva, Ohio 44041), CLI-94-6, 39 NRC 285, 313 (1994)

- NRC discretionary authority to initiate enforcement proceedings; CLI-94-12, 40 NRC 70 (1994)

- denial of standing where injury-in-fact is too speculative; CLI-94-12, 40 NRC 72 (1994)
- Aloha Airlines, Inc. v. CAB, 598 F.2d 250, 262 (D.C. Cir. 1979)

- pleading requirements in enforcement proceedings; LBP-94-21, 40 NRC 30 (1994)
- Arizona Public Service Co. (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), CLI-91-12, 34 NRC 149, 155 (1991)

- effect of corporate restructuring on financial qualifications to operate facility safety; CLI-94-10, 40 NRC 53 (1994)
- Arizona Public Service Co. (Palo Verde Nuclear Generating Station, Units 2 and 3), ALAB-742, 18 NRC 380, 383 (1983)

- NRC policy disfavoring interlocutory review; CLI-94-11, 40 NRC 59 (1994)
- Armed Forces Radiobiology Institute (Cobalt-60 Storage Facility), ALAB-682, 16 NRC 150, 153-54 (1982)

- geographic proximity as basis for standing to intervene; CLI-94-12, 40 NRC 75 n.22 (1994)

- authority to represent an organization for purpose of establishing standing to intervene; LBP-94-20, 40 NRC 19 (1994)

- judicial concepts of standing applied in NRC proceedings; CLI-94-12, 40 NRC 71 (1994)
- Bellotti v. NRC, 725 F.2d 1380 (D.C. Cir. 1983)

- intervention in support of enforcement actions; CLI-94-12, 40 NRC 39 (1994)
- scope of enforcement proceedings; CLI-94-12, 40 NRC 69 (1994)

- riverbed ownership claims of Indian Nation for purpose of establishing standing to intervene; LBP-94-19, 40 NRC 14 n.19 (1994)
- Citizens State Bank v. FDIC, 751 F.2d 209, 213 (8th Cir. 1984)

- due process requirements for enforcement actions; LBP-94-21, 40 NRC 30 (1994)
- Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Unit 1), CLI-93-21, 38 NRC 87, 92 (1993)

- judicial concepts of standing applied in NRC proceedings; CLI-94-10, 40 NRC 45 (1994); CLI-94-12, 40 NRC 72 (1994)

- satisfaction of injury-in-fact and zone-of-interests tests for standing to intervene; LBP-94-19, 40 NRC 14 (1994)
Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-736, 18 NRC 165, 166 (1983)
    licensing board refusal to dismiss a party from a proceeding as basis for interlocutory appeal;
    CLI-94-11, 40 NRC 59 (1994)
Commonwealth Edison Co. (Braidwood Nuclear Power Station, Units 1 and 2), ALAB-817, 22 NRC 470,
    474 & nn.16-17 (1985)
    issuance of important or novel decision as basis for interlocutory appeal; CLI-94-11, 40 NRC 63
    (1994)
Commonwealth Edison Co. (Byron Nuclear Power Station, Units 1 and 2), ALAB-735, 18 NRC 19, 23-24
    (1983)
    pleading requirements for petitions for interlocutory review; CLI-94-11, 40 NRC 61 (1994)
Commonwealth Edison Co. (Zion Station, Units 1 and 2), ALAB-116, 6 AEC 258, 259 (1973)
    commitment of resources as irreparable impact for purpose of obtaining interlocutory review;
    CLI-94-11, 40 NRC 61 (1994)
Connecticut Bankers Association v. Board of Governors, 627 F.2d 245 (D.C. Cir. 1980)
    factual support required for admission of contentions; CLI-94-10, 40 NRC 51 (1994)
Consolidated Edison Co. of New York (Indian Point, Units 1, 2, and 3), CLI-77-2, 5 NRC 13, 14 (1977)
    burden on movant for interlocutory review; CLI-94-11, 40 NRC 61 (1994)
Consumers Power Co. (Midland Plant, Units 1 and 2), ALAB-395, 5 NRC 772, 779 (1977)
    irreparable injury standard for grant of a stay; CLI-94-9, 40 NRC 6 (1994)
Consumers Power Co. (Midland Plant, Units 1 and 2), CLI-74-3, 7 AEC 7, 12 (1974)
    intervention in support of enforcement orders; CLI-94-12, 40 NRC 69 (1994)
Consumers Power Co. (Midland Plant, Units 1 and 2), LBP-84-20, 19 NRC 1285, 1296 (1984)
    standard for admission of a new basis for a contention; LBP-94-27, 40 NRC 105 (1994)
    test for litigable issues; LBP-94-22, 40 NRC 39 (1994)
Consumers Power Co. (Midland Plant, Units 1 and 2), LBP-85-2, 21 NRC 24, 32-33, 118 (1985), vacated
    as moot, ALAB-842, 24 NRC 197 (1986)
    intervention in support of enforcement orders; CLI-94-12, 40 NRC 69 (1994)
    discovery of opinion portions of NRC Staff documents; LBP-94-26, 40 NRC 98 (1994)
Dairyland Power Cooperative (La Crosse Boiling Water Reactor), LBP-80-26, 12 NRC 367, 374-75 (1980),
    review of certified question, ALAB-618, 12 NRC 551 (1980)
    intervention in support of enforcement orders; CLI-94-12, 40 NRC 69 (1994)
Data Disc, Inc. v. Systems Technology Associates, 557 F.2d 1280, 1285 (9th Cir. 1977)
    licensing board view of its own jurisdiction as basis for interlocutory review; CLI-94-11, 40 NRC 62
    n.5 (1994)
Detroit Edison Co. (Greenwood Energy Center, Units 2 and 3), ALAB-472, 7 NRC 570, 571 n.1 (1978)
    effect of decision granting intervention on appealability of earlier interlocutory decisions; CLI-94-12,
    40 NRC 57 (1994)
    judicial concepts of standing applied in NRC proceedings; CLI-94-12, 40 NRC 71 (1994)
Duquesne Light Co. (Beaver Valley Power Station, Unit 1), ALAB-109, 6 AEC 243, 244 (1973)
    weight given to licensing board’s standing determinations; CLI-94-10, 40 NRC 46 (1994)
EPA v. Mink, 410 U.S. 73, 87-88 (1973)
    production of Staff dissenting professional opinions; LBP-94-26, 40 NRC 99 (1994)
Florida Power and Light Co. (St. Lucie Nuclear Power Plant, Units 1 and 2), CLI-89-21, 30 NRC 325,
    329-30 (1989)
    standing to intervene on basis of frequent contacts in area near nuclear facility; CLI-94-12, 40 NRC
    75 (1994)
Florida Power and Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), ALAB-952, 33 NRC
    521, 530 (1991)
    authority to represent an organization for purpose of establishing standing to intervene; LBP-94-20, 40
    NRC 18 (1994)
LEGAL CITATIONS INDEX

CASES

General Electric Co. (Vallecitos Nuclear Center, General Electric Test Reactor), LBP-78-33, 8 NRC 461 464-68 (1978)

discovery of staff answers to questions concerning credibility of its case; LBP-94-26, 40 NRC 98 (1994)

Georgia Power Co. (Vogtle Electric Generating Plant, Units 1 and 2), CLI-94-5, 39 NRC 190 (1994)
criteria for grant of interlocutory review; CLI-94-11, 40 NRC 60 (1994)

Gulf States Utilities Co. (River Bend Station, Unit 1), CLI-94-10, 40 NRC 43, 47-48 (1994)
weight given to licensing board rulings on standing to intervene; CLI-94-12, 40 NRC 72 (1994)

NRC discretionary authority to initiate enforcement proceedings; CLI-94-12, 40 NRC 70 (1994)

Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9 NRC 377, 389-400 (1979)
demonstration of injury-in-fact by organization seeking representational standing; CLI-94-12, 40 NRC 73 (1994)

Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9 NRC 377, 390-96 (1976)
standard for establishing representational standing to intervene; LBP-94-19, 40 NRC 15 n.25 (1994)

Houston Lighting and Power Co. (South Texas Project, Units 1 and 2), ALAB-549, 9 NRC 644, 646 (1979)
demonstration of organizational standing in informal proceedings; LBP-94-20, 40 NRC 18 (1994)

Hurley Medical Center (One Hurley Plaza, Flint, Michigan), ALJ-87-2, 25 NRC 219, 236-37 & n.5 (1987)
scope of board authority to take enforcement actions; LBP-94-21, 40 NRC 30 (1994)

Kerr-McGee Chemical Corp. (Kress Creek Decontamination), LBP-86-18, 23 NRC 799, 802 (1986)
intervention in support of enforcement orders; CLI-94-12, 40 NRC 69 (1994)

Kerr-McGee Chemical Corp. (West Chicago Rare Earths Facility), ALAB-928, 31 NRC 263, 269 (1990)
showing necessary on success-on-the-merits standard in absence of irreparable injury; CLI-94-9, 40 NRC 7 (1994)

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), ALAB-773, 19 NRC 1333, 1341 (1984)
burden on claimant of executive privilege; LBP-94-26, 40 NRC 98 n.11 (1994)

commitment of resources as irreparable impact for purpose of obtaining interlocutory review; CLI-94-11, 40 NRC 61 (1994)

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-77-11, 5 NRC 481, 484 (1977)
authority to represent an organization for purpose of establishing standing to intervene; LBP-94-20, 40 NRC 19 (1994)

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-82-82, 16 NRC 1144, 1164 (1982)
production of staff dissenting professional opinions; LBP-94-26, 40 NRC 99 (1994)

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-82-82, 16 NRC 1144, 1165 (1982)
burden on claimant of executive privilege; LBP-94-26, 40 NRC 98 n.11 (1994)

denial of standing where injury-in-fact is too speculative; CLI-94-12, 40 NRC 72 (1994)

grant of organizational standing where injury has small chance of occurring; CLI-94-12, 40 NRC 74 n.19 (1994)

injury-in-fact standard for intervention in NRC proceedings; CLI-94-10, 40 NRC 45 (1994)
judicial concepts of standing applied in NRC proceedings; CLI-94-12, 40 NRC 72 (1994)

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), CLI-84-17, 20 NRC 801, 804 (1984)
irreparable injury standard for grant of a stay; CLI-94-9, 40 NRC 6 (1994)
Moog Industries, Inc. v. FTC, 355 U.S. 411, 413 (1958)
NRC discretionary authority to initiate enforcement proceedings; CLI-94-12, 40 NRC 70 (1994)
denial of standing where injury-in-fact is too speculative; CLI-94-12, 40 NRC 72 (1994)
geographic proximity as basis for standing to intervene; CLI-94-12, 40 NRC 75 n.22 (1994)
Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2), ALAB-107, 6 AEC 188, 193 (1973), aff'd on other grounds, CLI-73-12, 6 AEC 241 (1973), aff'd sub nom. BPI v. AEC, 502 F.2d 424 (D.C. Cir. 1974)
weight given to licensing board’s standing determinations; CLI-94-10, 40 NRC 46 (1994)
Nuclear Engineering Co. (Sheffield, Illinois, Low-Level Radioactive Waste Disposal Site), ALAB-473, 7 NRC 737 (1978)
intervention in support of enforcement actions; CLI-94-12, 40 NRC 68 (1994)
injury-in-fact standard for standing to intervene; CLI-94-12, 40 NRC 72 (1994)
forum for filing stay of discovery requests; CLI-94-9, 40 NRC 7 n.1 (1994)
Ohio Edison Co. (Perry Nuclear Power Plant, Unit 1), LBP-92-32, 36 NRC 269, 283 & n.27 (1992)
applicability of res judicata and collateral estoppel in NRC proceedings; LBP-94-21, 40 NRC 30 n.1 (1994)
Ohio National Life Insurance Co. v. United States, 922 F.2d 320, 325 (6th Cir. 1990)
licensing board view of its own jurisdiction as basis for interlocutory review; CLI-94-11, 40 NRC 62 n.5 (1994)
Oncology Services Corp., CLI-93-13, 37 NRC 419, 420-21 (1993)
criteria for grant of interlocutory review; CLI-94-11, 40 NRC 60 (1994)
Oncology Services Corp., LBP-93-20, 38 NRC 130, 135 n.2 (1993)
admissibility of hearsay evidence in NRC proceedings; LBP-94-21, 40 NRC 31 (1994)
Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-504, 8 NRC 406, 410 (1978)
NRC policy disfavoring interlocutory review; CLI-94-11, 40 NRC 59 (1994)
limitations on amendment of contentions; LBP-94-22, 40 NRC 40 n.8 (1994)
Pennsylvania Gas & Water Co. v. FPC, 463 F.2d 1242, 1246-47, 1249-52 (D.C. Cir. 1972)
objections to settlement orders; CLI-94-12, 40 NRC 71 n.10 (1994)
Petition for Emergency and Remedial Action, CLI-78-6, 7 NRC 400, 405-06 (1978)
agency discretion in choice of enforcement actions; DD-94-8, 40 NRC 129 n.1 (1994)
Petition for Shutdown of Certain Reactors, CLI-73-31, 6 AEC 1069, 1071 (1973)
agency discretion in choice of enforcement actions; DD-94-8, 40 NRC 129 n.1 (1994)
Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), ALAB-273, 1 NRC 492, 494 (1975)
weight given to licensing board’s standing determinations; CLI-94-10, 40 NRC 46 (1994)
Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 614 (1976)
Commission authority to define scope of public participation in its proceedings; CLI-94-12, 40 NRC 69 (1994)
Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-316, 3 NRC 167, 170-71 (1976)
scope of litigable issues; CLI-94-10, 40 NRC 51 (1994)
Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-405, 5 NRC 1190 (1977)
substantial injury standard for grant of interlocutory review; CLI-94-11, 40 NRC 62 (1994)
LEGAL CITATIONS INDEX

CASES

Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), CLI-80-10, 11 NRC 438, 440-41 (1980)
  Commission authority to define scope of public participation in its proceedings; CLI-94-12, 40 NRC 69 (1994)

Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-858, 25 NRC 17, 21-22 (1987)
  commitment of resources as irreparable impact for purpose of obtaining interlocutory review; CLI-94-11, 40 NRC 61 (1994)

Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), CLI-88-10, 28 NRC 573, 600 (1988)
  safety considerations of licensee's financial qualifications; CLI-94-10, 40 NRC 48 (1994)

Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), CLI-90-3, 31 NRC 219, 258 (1990), aff'd on other grounds sub nom. Massachusetts v. NRC, 924 F.2d 311 (D.C. Cir.), cert. denied, 112 S. Ct. 273 (1991)
  weight given to irreparable injury standard for grant of a stay; CLI-94-9, 40 NRC 7 (1994)

  irreparable injury standard for grant of a stay; CLI-94-9, 40 NRC 6 (1994)

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station), CLI-92-2, 35 NRC 47, 56 (1992)
  economic interests protected under National Environmental Policy Act; LBP-94-19, 40 NRC 14 n.21 (1994)
  standing requirements in informal proceedings; LBP-94-20, 40 NRC 18 (1994)

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station), CLI-94-2, 39 NRC 91, 93 (1994)
  NRC policy disfavoring interlocutory review; CLI-94-11, 40 NRC 59 (1994)

Safety Light Corp. (Bloomsburg Site Decontamination and License Renewal Denials), CLI-92-13, 36 NRC 79, 89-90 (1992)
  Board authority to consolidate issues; CLI-94-10, 40 NRC 51 (1994)

Safety Light Corp. (Bloomsburg Site Decontamination), ALAB-931, 31 NRC 350, 361 (1990)
  licensing board view of its own jurisdiction as basis for interlocutory review; CLI-94-11, 40 NRC 60 (1994)

Safety Light Corp. (Bloomsburg Site Decontamination), CLI-92-9, 35 NRC 156 (1992)
  jurisdictional issues as basis for interlocutory review; CLI-94-11, 40 NRC 63 (1994)

Siegel v. AEC, 400 F.2d 778, 783 (D.C. Cir. 1968)
  Staff authority to utilize radiation exposure incident as basis for suspension and modification of byproduct material license; LBP-94-21, 40 NRC 28 (1994)

  redressability standard for standing to intervene; CLI-94-12, 40 NRC 76 (1994)

Smith v. FTC, 403 F. Supp. 1000, 1016 (D. Del 1975)
  burden on claimant of executive privilege; LBP-94-26, 40 NRC 98 n.11 (1994)

  criteria for grant of interlocutory review; CLI-94-11, 40 NRC 60 (1994)

Toledo Edison Co. (Davis-Besse Nuclear Power Station, Units 1, 2, and 3), ALAB-385, 5 NRC 621 (1977)
  irreparable injury standard for grant of a stay; CLI-94-9, 40 NRC 7 (1994)

Union Electric Co. (Callaway Plant, Units 1 and 2), LBP-78-31, 8 NRC 366, 368 (1978), aff'd, ALAB-527, 9 NRC 126 (1979)
  intervention in support of enforcement orders; CLI-94-12, 40 NRC 69 (1994)

  denial of standing where injury-in-fact is too speculative; CLI-94-12, 40 NRC 72 (1994)
LEGAL CITATIONS INDEX
CASES

Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2), ALAB-146, 6 AEC 631, 633-34 (1973)
  board policy on contention pleading imperfections; LBP-94-19, 40 NRC 15 (1994)
Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2), ALAB-146, 6 AEC 631, 634 (1973)
  amendment of intervention petitions to cure defects; LBP-94-20, 40 NRC 20 n.3 (1994)
Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2), ALAB-522, 9 NRC 54, 57 n.5 (1979)
  weight given to licensing board’s standing determinations; CLI-94-10, 40 NRC 46 (1994)
Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2), ALAB-741, 18 NRC 371, 378 n.11 (1983)
  potential for delay and increased expense as irreparable impact for purpose of obtaining interlocutory
  review; CLI-94-11, 40 NRC 61 (1994)
Virginia Petroleum Jobbers Ass’n v. Federal Power Commission, 259 F.2d 921, 925 (D.C. Cir. 1958)
  irreparable injury standard for grant of a stay; CLI-94-9, 40 NRC 6-7 (1994)
Whitmore v. Arkansas, 495 U.S. 149, 158-59 (1990)
  denial of standing where injury-in-fact is too speculative; CLI-94-12, 40 NRC 72 (1994)
Wilderness Society v. Griles, 824 F.2d 4, 11 (D.C. Cir. 1987)
  nature of injury needed to establish standing to intervene; CLI-94-10, 40 NRC 47 (1994)
LEGAL CITATIONS INDEX
REGULATIONS

10 C.F.R. 2.202
intervention in support of enforcement action; CLI-94-12, 40 NRC 67 (1994); CLI-94-13, 40 NRC 79 (1994)
Staff authority to utilize radiation exposure incident as basis for suspension and modification of byproduct material license; LBP-94-21, 40 NRC 29 (1994)
10 C.F.R. 2.202(a)(1)
basis for Staff enforcement actions; LBP-94-21, 40 NRC 28, 29 (1994)
10 C.F.R. 2.203
licensing board review of settlement agreements; LBP-94-28, 40 NRC 117, 118 (1994)
presiding officer's responsibility to review settlement agreements; CLI-94-12, 40 NRC 71 (1994)
10 C.F.R. 2.701(c)
collection date for filings; LBP-94-20, 40 NRC 20 (1994)
10 C.F.R. 2.714(a)
intervention in support of enforcement actions; CLI-94-12, 40 NRC 68 (1994); LBP-94-19, 40 NRC 10-11 (1994)
10 C.F.R. 2.714(a)(1)
intervention rights in support of Staff enforcement order; LBP-94-19, 40 NRC 12 n.7 (1994)
standards for organizational or representational standing to intervene; LBP-94-19, 40 NRC 11 (1994)
test for litigable issues; LBP-94-22, 40 NRC 39 (1994)
10 C.F.R. 2.714(b)(2) and (d)(2)
standards for admissible contentions; CLI-94-10, 40 NRC 51 (1994)
10 C.F.R. 2.714(b)(2)(ii)
disclosure requirements for contention bases; LBP-94-22, 40 NRC 39 n.6 (1994)
10 C.F.R. 2.714(d)(2)(ii)
Staff authority to “defense” issues; LBP-94-21, 40 NRC 33 n.4 (1994)
10 C.F.R. 2.714(f)
consolidation of intervenors’ litigation presentations; LBP-94-19, 40 NRC 15 n.28 (1994)
10 C.F.R. 2.714a
appeal of board determination on intervention rights in support of Staff enforcement order; LBP-94-19, 40 NRC 11 n.2 (1994)
appeal of intervention rulings; CLI-94-10, 40 NRC 45 (1994); CLI-94-12, 40 NRC 66 (1994); CLI-94-13, 40 NRC 78 (1994)
effect of decision granting intervention on appealability of earlier interlocutory decisions; CLI-94-12, 40 NRC 67 (1994)
NRC policy disfavoring interlocutory review; CLI-94-11, 40 NRC 59 (1994)
10 C.F.R. 2.714a(a)
appeals of intervention rulings; LBP-94-19, 40 NRC 16 (1994)
10 C.F.R. 2.716
Board authority to consolidate issues; CLI-94-10, 40 NRC 51 (1994)
10 C.F.R. 2.718
licensing board authority to admit new basis for a contention; LBP-94-22, 40 NRC 39 (1994); LBP-94-27, 40 NRC 105 (1994)
LEGAL CITATIONS INDEX

REGULATIONS

10 C.F.R. 2.718(i)  
interlocutory appeal based on jurisdictional question; CLI-94-11, 40 NRC 59 (1994)
10 C.F.R. 2.720(b)(2)(ii)  
standard for requiring Staff answers to interrogatories; LBP-94-26, 40 NRC 95 (1994)
10 C.F.R. 2.730  
stay of discovery; CLI-94-9, 40 NRC 4 (1994)
10 C.F.R. 2.730(a)  
forum for filing stay of discovery requests; CLI-94-9, 40 NRC 7 n.1 (1994)
10 C.F.R. 2.730(f)  
referral of ruling that affects basic structure of proceeding; CLI-94-12, 40 NRC 67 (1994)
10 C.F.R. 2.730(g)  
effect of filing a motion for certification of a question on status of a proceeding; CLI-94-9, 40 NRC 5, 6 (1994)
10 C.F.R. 2.732  
burden on movant for interlocutory review; CLI-94-11, 40 NRC 61 (1994)
10 C.F.R. 2.740(b)(1)  
production of publicly available documents; LBP-94-26, 40 NRC 98 (1994)
10 C.F.R. 2.740(c)  
deposition of ill person; LBP-94-24, 40 NRC 84-85 (1994)
licensing board authority to manage discovery; CLI-94-9, 40 NRC 7 (1994)
10 C.F.R. 2.740(b)(a)  
standard for requiring Staff answers to interrogatories; LBP-94-26, 40 NRC 95 (1994)
10 C.F.R. 2.742  
Board treatment of NRC Staff requests for admissions; LBP-94-26, 40 NRC 95 (1994)
interpretation relative to special treatment of Staff admissions; LBP-94-26, 40 NRC 96 (1994)
10 C.F.R. 2.744(d)  
standard for requiring Staff answers to interrogatories; LBP-94-26, 40 NRC 95 (1994)
10 C.F.R. 2.771  
standards for a motion for reconsideration; LBP-94-31, 40 NRC 139 (1994)
10 C.F.R. 2.786(a)  
finality of decision when Commission declines review; LBP-94-29, 40 NRC 124 (1994)
10 C.F.R. 2.786(g)  
Commission discretionary authority to review licensing board interlocutory orders; CLI-94-11, 40 NRC 60 (1994)
review of referred ruling that might affect the basic structure of a proceeding; CLI-94-12, 40 NRC 67 (1994)
10 C.F.R. 2.786(g)(1), (2)  
interlocutory appeal based on jurisdictional question; CLI-94-11, 40 NRC 59 (1994)
standard for interlocutory review; CLI-94-11, 40 NRC 59 (1994)
10 C.F.R. 2.788(c)  
standards for a stay; CLI-94-9, 40 NRC 5, 6 (1994)
10 C.F.R. Part 2, Appendix C, IV & n.5  
variation in public health and safety significance of license conditions; LBP-94-21, 40 NRC 33 (1994)
10 C.F.R. Part 2, Appendix C, IV.B, IV.C  
evaluation of safety significance of license violations; LBP-94-21, 40 NRC 33 (1994)
10 C.F.R. 2.1205(d)(g)  
judicial requirements for standing in informal proceedings; LBP-94-20, 40 NRC 18 (1994)
10 C.F.R. 35.18  
basis for suspension or modification of byproduct material license; LBP-94-21, 40 NRC 29 (1994)
10 C.F.R. 50.33(f)(2)  
financial qualifications consideration for transfer of operating authority; CLI-94-10, 40 NRC 48 (1994)
10 C.F.R. 50.59  
safety evaluation requirements for violation of Technical Specifications; LBP-94-27, 40 NRC 109 (1994)
10 C.F.R. 50.80
transfer of operations control; CLI-94-10, 40 NRC 45 (1994)
Atomic Energy Act, 103b, 42 U.S.C. § 2133(b)
  radiological injury to property as basis for standing to intervene; CLI-94-10, 40 NRC 48 (1994)
Atomic Energy Act, 161b, 42 U.S.C. § 2201(b)
  radiological injury to property as basis for standing to intervene; CLI-94-10, 40 NRC 48 (1994)
  Staff authority to utilize radiation exposure incident as basis for suspension and modification of
  byproduct material license; LBP-94-21, 40 NRC 28, 29-30 (1994)
Atomic Energy Act, 161c, 42 U.S.C. § 2201(c)
  Commission authority to hold hearings on enforcement actions; CLI-94-12, 40 NRC 69 (1994)
Atomic Energy Act, 161i, 42 U.S.C. § 2201(i)
  Staff authority to utilize radiation exposure incident as basis for suspension and modification of
  byproduct material license; LBP-94-21, 40 NRC 28, 29-30 (1994)
Atomic Energy Act, 186a, 42 U.S.C. § 2236(a)
  Commission authority to revoke or suspend a license; LBP-94-21, 40 NRC 28 (1994)
Atomic Energy Act, 189a, 42 U.S.C. § 2239(a)
  hearing rights on operating license amendments; CLI-94-10, 40 NRC 47 (1994)
Atomic Energy Act, 189a(1), 42 U.S.C. § 2239(a)(1)
  intervention in support of enforcement actions; CLI-94-12, 40 NRC 68, 69 (1994); LBP-94-19, 40 NRC
  12 n.7 (1994)
Atomic Energy Act, 234, 42 U.S.C. § 2282
  licensing board review of settlement agreements; LBP-94-28, 40 NRC 117, 118 (1994)
Am. Jur. 2d 22, Motions, Rules, and Orders § 27 (1971)
reargument or rehearing of a motion, standard for grant of a request for; LBP-94-31, 40 NRC 140 (1994)

56 Am. Jur. 2d Supp. 24-25
motions to renew versus motions for reconsideration; LBP-94-31, 40 NRC 140 n.1 (1994)

Fed. R. Civ. P. 36
interpretation of 10 C.F.R. 2.742 relative to special treatment of Staff admissions; LBP-94-26, 40 NRC 96 (1994)

Ernest Gelhorn and William F. Robinson, Jr., Summary Judgment in Administrative Adjudication, 84 Harv. L. Rev. 612 (1971), at 613
definition of collateral facts; LBP-94-31, 40 NRC 141 (1994)

determination of subject matter jurisdiction when facts presented give rise to factual controversy; CLI-94-7, 40 NRC 62 n.5 (1994)

5A James W. Moore et al., Moore's Federal Practice ¶ 52.08 at pp. 52-156 to 52-157 (2d ed. 1993)
determination of subject matter jurisdiction when facts presented give rise to factual controversy; CLI-94-7, 40 NRC 62 n.5 (1994)
SUBJECT INDEX

AGREEMENTS
  voluntary, on deposition of ill person; LBP-94-24, 40 NRC 83 (1994)
  See also Settlement Agreements

AMENDMENT
  See Materials License Amendment

APPEAL BOARDS
  precedential weight accorded to decisions of; CLI-94-11, 40 NRC 55 (1994)

APPEALS
  stay of discovery pending; CLI-94-9, 40 NRC 1 (1994)

APPEALS, INTERLOCUTORY
  burden of proof on; CLI-94-11, 40 NRC 55 (1994)
  Commission policy on; CLI-94-11, 40 NRC 55 (1994)
  irreparable impact standard for grant of; CLI-94-11, 40 NRC 55 (1994)
  pervasive effect on nature of proceeding; CLI-94-11, 40 NRC 55 (1994)

BOARDS
  See Appeal Boards; Licensing Boards

BRACHYTHERAPY
  high-dose-rate iridium-192 sealed source; LBP-94-29, 40 NRC 123 (1994)

BREACH OF COMMITMENT
  beyond technical specifications; LBP-94-27, 40 NRC 103 (1994)

BYPRODUCT MATERIALS LICENSE
  suspension of; LBP-94-21, 40 NRC 22 (1994); LBP-94-29, 40 NRC 123 (1994)

CERTIFICATION
  See Directed Certification

COLLATERAL ESTOPPEL
  applicability in NRC proceedings; LBP-94-21, 40 NRC 22 (1994)

CONTAINMENT
  equipment hatch; LBP-94-27, 40 NRC 103 (1994)

CONTENTIONS
  admitted, new basis for; LBP-94-22, 40 NRC 37 (1994)
  factual support necessary at filing stage; CLI-94-10, 40 NRC 43 (1994)
  late-filed basis for; LBP-94-27, 40 NRC 103 (1994)
  limitations on amendment of; LBP-94-22, 40 NRC 37 (1994)
  pleading imperfections; LBP-94-19, 40 NRC 9 (1994)
  pleading requirements for; CLI-94-10, 40 NRC 43 (1994)
  scope of litigable issues; CLI-94-10, 40 NRC 43 (1994)

DECISIONS
  appellate, precedential weight accorded to; CLI-94-11, 40 NRC 55 (1994)

DECOMMISSIONING
  lifting of restriction on Staff ability to issue order for; CLI-94-14, 40 NRC 133 (1994)
  site remediation requirements for; LBP-94-20, 40 NRC 17 (1994)

DEFINITIONS
  operable, in Technical Specifications; LBP-94-27, 40 NRC 103 (1994)
SUBJECT INDEX

DEPOSITION
ill person; LBP-94-24, 40 NRC 83 (1994)

DIRECTED CERTIFICATION
challenges to interlocutory order treated as petition for; CLI-94-11, 40 NRC 55 (1994)

DISCOVERY
licensing board authority to manage; CLI-94-9, 40 NRC 1 (1994)
NRC Staff documents and names of Staff; LBP-94-26, 40 NRC 93 (1994); LBP-94-31, 40 NRC 137 (1994)
stay of; CLI-94-9, 40 NRC 1 (1994)

DISMISSAL OF PROCEEDING
failure of intervenor to cure deficiencies in hearing request as basis for; LBP-94-30, 40 NRC 135 (1994)
See also Termination of Proceeding

DUE PROCESS
notice of charges and opportunity to respond to enforcement actions; LBP-94-21, 40 NRC 22 (1994)

ELECTRICAL POWER
loss of; LBP-94-27, 40 NRC 103 (1994)

EMERGENCIES
site area; LBP-94-27, 40 NRC 103 (1994)

EMERGENCY POWER
diesel generator; LBP-94-27, 40 NRC 103 (1994)

ENFORCEMENT ACTIONS
agency discretion in choice of; DD-94-8, 40 NRC 127 (1994)
Constitutional due process requirements; LBP-94-21, 40 NRC 22 (1994)
intervention in support of; CLI-94-13, 40 NRC 78 (1994); LBP-94-19, 40 NRC 9 (1994)
legal basis for Commission authority to take; LBP-94-21, 40 NRC 22 (1994)
removal of individual from licensed or regulated activities; LBP-94-25, 40 NRC 88 (1994)
settlement agreements; CLI-94-12, 40 NRC 64 (1994)
sufficiency of charges based on hearsay allegations; LBP-94-21, 40 NRC 22 (1994)

ENFORCEMENT PROCEEDINGS
license suspension and modification; LBP-94-21, 40 NRC 22 (1994)
licensing board authority to dismiss issues in; LBP-94-21, 40 NRC 22 (1994)
NRC discretion in initiation of; CLI-94-12, 40 NRC 64 (1994)
scope of; LBP-94-21, 40 NRC 22 (1994)
scope of public participation; CLI-94-12, 40 NRC 64 (1994)

EVIDENCE, HEARSAY
enforcement actions based on; LBP-94-21, 40 NRC 22 (1994)

EXTENSION OF TIME
stay compared to; LBP-94-31, 40 NRC 137 (1994)

FINANCIAL QUALIFICATIONS
interpretation of regulations; CLI-94-10, 40 NRC 43 (1994)

HEARING REQUESTS
effect of failure to cure deficiencies in; LBP-94-30, 40 NRC 135 (1994)

INFORMAL HEARINGS
areas of concern, basis for presiding officer’s determination on; LBP-94-20, 40 NRC 17 (1994)
standing to intervene in; LBP-94-20, 40 NRC 17 (1994)

INTERROGATORIES
NRC Staff as target of; LBP-94-26, 40 NRC 93 (1994); LBP-94-31, 40 NRC 137 (1994)

INTERVENOR
withdrawal from proceeding with prejudice; LBP-94-23, 40 NRC 81 (1994)

INTERVENTION
support of enforcement actions; CLI-94-13, 40 NRC 78 (1994); LBP-94-19, 40 NRC 9 (1994)
See also Standing to Intervene
SUBJECT INDEX

INTERVENTION PETITIONS
amendment to cure defects; LBP-94-20, 40 NRC 17 (1994)

JURISDICTION
interlocutory appeal based on question of; CLI-94-11, 40 NRC 55 (1994)

LICENSEE EMPLOYEES
mechanism for reporting safety concerns at Palo Verde; DD-94-8, 40 NRC 127 (1994)

LICENSES
See Byproduct Materials License

LICENSING BOARDS
authority to admit new basis for contention; LBP-94-22, 40 NRC 37 (1994)
authority to dismiss issues in enforcement proceedings; LBP-94-21, 40 NRC 22 (1994)
authority to modify discovery demands; CLI-94-9, 40 NRC 1 (1994)
review of settlement agreements; LBP-94-28, 40 NRC 117 (1994)
weight given to standing determinations; CLI-94-10, 40 NRC 43 (1994)

MATERIAL LICENSE AMENDMENT
decommissioning and site remediation; LBP-94-20, 40 NRC 17 (1994)

MOOTNESS
termination of proceeding on grounds of; LBP-94-29, 40 NRC 123 (1994)

MOTION FOR RECONSIDERATION
substantive standard; LBP-94-31, 40 NRC 137 (1994)
timeliness of; LBP-94-31, 40 NRC 137 (1994)

MOTION TO COMPEL
deposition of ill person; LBP-94-24, 40 NRC 83 (1994)

NRC STAFF
Board treatment of requests for admissions; LBP-94-26, 40 NRC 93 (1994)
discovery of documents from; LBP-94-31, 40 NRC 137 (1994)
discovery of names of individuals involved in preparing key report; LBP-94-31, 40 NRC 137 (1994)
testimony asked of; LBP-94-26, 40 NRC 93 (1994)

NUCLEAR POWER PLANTS
transfer of operations control; CLI-94-10, 40 NRC 43 (1994)

NUCLEAR REGULATORY COMMISSION
legal basis for enforcement actions; LBP-94-21, 40 NRC 22 (1994)

PRESIDING OFFICER
review of settlement agreements; CLI-94-12, 40 NRC 64 (1994)

PROOF, BURDEN OF
interlocutory appeals; CLI-94-11, 40 NRC 55 (1994)

RECONSIDERATION
See Motion for Reconsideration

REGULATIONS
interpretation of 10 C.F.R. 50.33(f)(2); CLI-94-10, 40 NRC 43 (1994)

RES JUDICATA
applicability in NRC proceedings; LBP-94-21, 40 NRC 22 (1994)

RESIDUAL HEAT REMOVAL SYSTEMS
operability; LBP-94-27, 40 NRC 103 (1994)

REVIEW
discretionary; CLI-94-11, 40 NRC 55 (1994)

RULES OF PRACTICE
Board treatment of NRC Staff requests for admissions; LBP-94-26, 40 NRC 93 (1994)
collateral estoppel in NRC proceedings; LBP-94-21, 40 NRC 22 (1994)
contention pleading requirements; LBP-94-19, 40 NRC 9 (1994)
deposition of ill person; LBP-94-24, 40 NRC 83 (1994)
discovery stays; CLI-94-9, 40 NRC 1 (1994)
interlocutory appeals; CLI-94-11, 40 NRC 55 (1994)
SUBJECT INDEX

late-filed basis for contention; LBP-94-27, 40 NRC 103 (1994)
motions for reconsideration; LBP-94-31, 40 NRC 137 (1994)
new basis for already-admitted contention; LBP-94-22, 40 NRC 37 (1994)
pleading requirements for contentions; CLI-94-10, 40 NRC 43 (1994)
res judicata in NRC proceedings; LBP-94-21, 40 NRC 22 (1994)
Staff answer to requests for admissions concerning truth of findings in reports containing collateral facts;
LBP-94-31, 40 NRC 137 (1994)
standing to intervene; CLI-94-10, 40 NRC 43 (1994); CLI-94-12, 40 NRC 64 (1994); LBP-94-19, 40 NRC 9 (1994)
stay pending appeal; CLI-94-9, 40 NRC 1 (1994)
stay versus extension of time; LBP-94-31, 40 NRC 137 (1994)
SETTLEMENT AGREEMENTS
licensing board approval of; LBP-94-25, 40 NRC 88 (1994)
licensing board review of; LBP-94-28, 40 NRC 117 (1994)
review by presiding officer; CLI-94-12, 40 NRC 64 (1994)
STANDING TO INTERVENE
application of judicial concepts in NRC proceedings; LBP-94-19, 40 NRC 9 (1994)
causation standard; CLI-94-12, 40 NRC 64 (1994)
jury-in-fact and zone-of-interests tests applied to informal proceedings; LBP-94-20, 40 NRC 17 (1994)
jury-in-fact standard; CLI-94-10, 40 NRC 43 (1994); CLI-94-12, 40 NRC 64 (1994)
judicial concepts applied in NRC proceedings; CLI-94-10, 40 NRC 43 (1994); CLI-94-12, 40 NRC 64 (1994)
organizational interests; LBP-94-20, 40 NRC 17 (1994)
redressability standard; CLI-94-12, 40 NRC 64 (1994)
representational, authorization for; LBP-94-19, 40 NRC 9 (1994)
weight given to licensing board judgment at pleading stage; CLI-94-10, 40 NRC 43 (1994)
STAY
extension of time compared to; LBP-94-31, 40 NRC 137 (1994)
forum for filing requests for; CLI-94-9, 40 NRC 1 (1994)
harm-to-other-parties standard; CLI-94-9, 40 NRC 1 (1994)
irreparable-injury standard; CLI-94-9, 40 NRC 1 (1994)
pending appeal; CLI-94-9, 40 NRC 1 (1994)
public-interest standard; CLI-94-9, 40 NRC 1 (1994)
success-on-the-merits standard; CLI-94-9, 40 NRC 1 (1994)
STRONTIUM-90
suspension of license to receive or use; LBP-94-21, 40 NRC 22 (1994)
SUMMARY DISPOSITION
burden on opponent of; LBP-94-21, 40 NRC 22 (1994)
TECHNICAL SPECIFICATIONS
action statements; LBP-94-27, 40 NRC 103 (1994)
"operable" defined in; LBP-94-27, 40 NRC 103 (1994)
violations of; LBP-94-27, 40 NRC 103 (1994)
TERMINATION OF PROCEEDING
mootness grounds for; LBP-94-29, 40 NRC 123 (1994)
withdrawal of intervenor as basis for; CLI-94-14, 40 NRC 133 (1994); LBP-94-23, 40 NRC 81 (1994)
VIOLATIONS
technical specifications, interpretation of; LBP-94-27, 40 NRC 103 (1994)
WHISTLEBLOWERS
protection of; DD-94-8, 40 NRC 127 (1994)
FACILITY INDEX

BERT AVENUE, HARVARD AVENUE, AND McGEAN-ROHCO SITES, NEWBURGH HEIGHTS AND CUYAHOGA HEIGHTS, OHIO; Docket No. 40-8724-MLA
MATERIALS LICENSE AMENDMENT; July 7, 1994; MEMORANDUM AND ORDER (Request for Hearing); LBP-94-20, 40 NRC 17 (1994)
MATERIALS LICENSE AMENDMENT; September 1, 1994; MEMORANDUM AND ORDER (Motion to Dismiss Proceeding); LBP-94-30, 40 NRC 135 (1994)

GORE, OKLAHOMA SITE; Docket No. 40-8027-EA
ENFORCEMENT; August 23, 1994; ORDER DENYING PETITION FOR INTERLOCUTORY REVIEW AND/OR MOTION FOR DIRECTED CERTIFICATION; CLI-94-11, 40 NRC 55 (1994)
ENFORCEMENT; August 23, 1994; MEMORANDUM AND ORDER; CLI-94-12, 40 NRC 64 (1994); CLI-94-13, 40 NRC 78 (1994)
ENFORCEMENT; July 7, 1994; MEMORANDUM AND ORDER (Granting Intervention Motion); LBP-94-19, 40 NRC 9 (1994)
ENFORCEMENT; July 21, 1994; ORDER; CLI-94-9, 40 NRC 1 (1994)

PALO VERDE NUCLEAR GENERATING STATION, Units 1, 2, and 3; Docket Nos. 50-528, 50-529, 50-530
REQUEST FOR ACTION; August 12, 1994; DIRECTOR’S DECISION UNDER 10 C.F.R. § 2.206; DD-94-8, 40 NRC 127 (1994)

RANCHO SECO NUCLEAR GENERATING STATION; Docket No. 50-312-DCOM
DECOMMISSIONING; September 2, 1994; ORDER; CLI-94-14, 40 NRC 133 (1994)
DECOMMISSIONING REMAND; August 11, 1994; MEMORANDUM AND ORDER (Terminating Proceeding); LBP-94-23, 40 NRC 81 (1994)

RIVER BEND STATION, Unit 1; Docket No. 50-458-OLA
OPERATING LICENSE AMENDMENT; August 23, 1994; MEMORANDUM AND ORDER; CLI-94-10, 40 NRC 43 (1994)
VOGTL ELECTRIC GENERATING PLANT, Units 1 and 2; Docket Nos. 50-424-OLA-3, 50-425-OLA-3
OPERATING LICENSE AMENDMENT; July 28, 1994; MEMORANDUM AND ORDER (Motion to Accept Additional Factual Basis); LBP-94-22, 40 NRC 37 (1994)
OPERATING LICENSE AMENDMENT; August 18, 1994; MEMORANDUM AND ORDER (Deposition of Mr. Bill Shipman); LBP-94-24, 40 NRC 83 (1994)
OPERATING LICENSE AMENDMENT; August 22, 1994; MEMORANDUM AND ORDER (Staff Responses to Intervenor’s First Request for Admissions, Second Set of Interrogatories); LBP-94-26, 40 NRC 93 (1994)
OPERATING LICENSE AMENDMENT; August 26, 1994; MEMORANDUM AND ORDER (Denying Motion to Accept Additional Factual Basis); LBP-94-27, 40 NRC 103 (1994)
OPERATING LICENSE AMENDMENT; September 9, 1994; MEMORANDUM AND ORDER (Motion for Reconsideration: Admissions; Second Order); LBP-94-31, 40 NRC 137 (1994)