

the Commission's Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings in 10 CFR part 2, subpart L.

Dated at Rockville, Maryland, this 25th day of September, 1997.

**Joseph J. Holonich,**

*Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 97-26271 Filed 10-2-97; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### Updated Environmental Standard Review Plan: Availability

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has prepared an update to the Environmental Standard Review Plan for the review of environmental reports for nuclear power plants (ESRP) for review and comment. A draft of the updated ESRP, NUREG-1555, incorporates changes in the regulation of the nuclear power industry, and changes in the treatment of environmental protection and siting issues that have occurred since the ESRP was initially issued in 1978 as NUREG-0555. Organizational changes have been made to the structure of ESRP sections to conform to the structure of the companion safety Standard Review Plan for the review of safety analysis reports for nuclear power plants (SRP), NUREG-0800. Most notably, significant changes have been made to incorporate the changes in environmental protection and resource statutes, other Federal regulations, Presidential executive orders, hearing decisions and case law, and NRC regulations related to new plant and site licensing, and license renewal. NUREG-1555 will supersede NUREG-0555.

**DATES:** The comment period expires January 30, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

#### ADDRESSES AND SUBMISSION OF

**COMMENTS:** Mail comments to: Chief, Rules and Directives Branch, Division of Freedom of Information and Publications Services, Mail Stop T-6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Comments may be hand-delivered

to the NRC at 11545 Rockville Pike, Rockville, Maryland between 7:45 a.m. and 4:15 p.m. on Federal workdays. Comments may be submitted electronically in WordPerfect or ASCII format via the Internet to the NRC at [esrp@nrc.gov](mailto:esrp@nrc.gov). Written comments and comments received electronically will be available for inspection at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Barry Zalcman, Office of Nuclear Reactor Regulation, Mail Stop O-10H5, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3467.

**SUPPLEMENTARY INFORMATION:** The proposed text in NUREG-1555, "Environmental Standard Review Plan," reflects the combined effort of NRC staff and NRC contractors. NRC staff review and evaluation, including resolution of public comments, and consideration by the Advisory Committee on Reactor Safeguards will be needed before a final version of NUREG-1555 can be published.

Due to the significance of the changes in NRC regulations related to new plant and site licensing, NRC regulations related to license renewal and environmental protection, other Federal regulations, environmental protection and resource statutes, Presidential executive orders, hearing decisions and case law, and due to the goal of restructuring the ESRP to conform to the structure of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants—LWR Edition," NUREG-1555 will supersede the earlier ESRP (NUREG-0555). For every section, the ESRP now identifies the specific acceptance criteria, which may have been the driver that forms the basis for the change to ESRP sections. For these reasons, the NRC judged that supporting documentation, including a redline/strikeout copy, that traces back to the original ESRP need not be provided. The updated ESRP also contains several new sections to address issues that emerged since 1978, for example, severe accident mitigation design alternatives and environmental justice.

The updated ESRP is not a generic communication that proposes new NRC staff positions or seeks additional licensee commitments. It does not impose new or revised requirements but simply compiles and documents NRC and other Federal requirements, and NRC staff positions. The ESRP does not explicitly incorporate State, regional or Native American tribal agency

requirements that may also need to be addressed by applicants or licensees.

Work activities related to updating the ESRP were performed substantially in conformance with the guidance in NUREG-1447, "Standard Review Plan Update and Development Program—Implementing Procedures Document," dated May 1992. NUREG-1447 documents the results of developing the major work assumptions and work processes for completing the standard review plan revision process. Information management protocols and process modifications were made to account for the unique drivers that resulted from changes outside of the Atomic Energy Act and NRC regulations arena including, but not limited to, the National Environmental Policy Act, the Endangered Species Act, the Presidential executive order on environmental justice, guidance from the Council on Environmental Quality, and the regulations of the Environmental Protection Agency on non-radiological issues. The entire work effort and responsibility for updating the ESRP resides in the NRC Generic Issues and Environmental Projects Branch, which coordinates with the appropriate technical review branches and essential technical specialists on particular issues.

The purpose of this notice is to solicit specific public comment on whether the updated ESRP accurately and fully reflects established NRC staff positions and existing requirements that include statutes, regulations, executive orders, and NRC decisions. Consideration should be given to the thoroughness and utility in use of the guidance provided to implement NRC rules promulgated since the original ESRP was published in 1978 with particular emphasis given to those related to siting and environmental protection and to those new licensing frameworks related to early site permits, combined licenses, and license renewal. The SRP is made available to the public as part of NRC's policy to inform the nuclear industry and general public of regulatory procedures and policies. Environmental standard review plans are not substitutes for regulatory guides or NRC regulations. Compliance with ESRPs is not required. Published environmental standard review plans will be revised periodically, as appropriate, to accommodate comments and to reflect new information and experience.

The NRC encourages comment from all interested parties; however, public review is not intended to reopen a dialogue on the merits of the requirements themselves but should be focused on the purposes stated above.

Comments should reference the page number and section (either ESRP section or Introduction or appendices).

The updated ESRP in printed paper, 3.5-inch disks and compact disk (CD) versions, and comments submitted are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC 20555-0001.

A limited number of copies of the updated draft ESRP in printed paper and CD versions (in WordPerfect 6.1 format) are available free, to the extent of supply, upon written request to the Office of Information Resources Management, Distribution Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Dated at Rockville, Maryland, this 11th day of September, 1997.

For the Nuclear Regulatory Commission.

*David B. Matthews,*

*Acting Chief, Generic Issues and Environmental Projects Branch, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.*

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## Nuclear Regulatory Commission

[Docket No. 72-10]

### Northern States Power Company Issuance of Director's Decision Under 10 CFR 2.206 (DD-97-24)

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, has issued a Director's Decision concerning a Petition dated August 26, 1996, filed by Carol A. Overland, on behalf of the Florence Township, Minnesota, Board of Supervisors (Petitioner), under Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206).

The Director of the Office of Nuclear Material Safety and Safeguards has determined that the Petition should be denied for the reasons stated in the "Director's Decision Under 10 CFR 2.206" (DD-97-24), the complete text of which follows this notice. The Decision and documents cited in the Decision are available for public inspection and copying in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC.

A copy of this Decision has been filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided therein, this Decision will become the final action of the Commission 25 days after issuance unless the Commission, on its own

motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 26th day of September 1997.

For The Nuclear Regulatory Commission.

**Carl J. Paperiello,**

*Director, Office of Nuclear Material Safety and Safeguards.*

### Director's Decision Under 10 CFR 2.206

#### I. Introduction

On August 26, 1996, Florence Township, Minnesota (Petitioner) filed a petition requesting that the Nuclear Regulatory Commission (NRC) institute a proceeding pursuant to 10 CFR 2.202 with regard to the application by Northern States Power Company (NSP), claiming, that NSP violated the Commission's regulations by failing to provide Lake City, Minnesota, with an opportunity to comment on a proposed emergency plan for an independent spent fuel storage installation (ISFSI) before submission to the NRC. The Petitioner requested that NRC: (1) Determine that NSP violated the requirements of 10 CFR 72.32(a)(14) by refusing to allow Lake City, Minnesota, 60 days to comment on NSP's emergency plan before submitting it to NRC; (2) reject NSP's application as incomplete and inadequate and return it to the corporation; (3) require that NSP specifically name the local governments referred to in section 5.6 of the emergency plan which are expected to respond in case of an accident; (4) require that NSP allow 60 days to the named local governments to review and comment upon NSP's emergency plan prior to NSP's resubmission of the application; (5) impose a penalty in the amount of one million dollars and require NSP to compensate the Petitioner in the amount of \$7,500.00 for time expended by its Board and attorney in attempting to obtain the emergency plan before its submission to the NRC; and (6) provide hearings on this petition at which the Petitioner and members of the public may participate.

The Petitioner asserts as the basis for this request the regulatory requirement found at § 72.32(a)(14) of Chapter 10 of the Code of Federal Regulations [10 CFR 72.32(a)(14)]:

The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the initial submittal of the licensee's emergency plan before submitting it to NRC. Subsequent plan changes need not have the offsite comment period unless the plan changes affect the offsite response organizations. The licensee shall provide any comments received within 60 days to NRC with the emergency plan.

The petition has been referred to me for a decision. For the reasons given below, I have concluded that the Petitioner's requests should be denied.

#### II. Background

NSP has an onsite ISFSI at Prairie Island Nuclear Generating Plant (PINGP), which has a capacity to store 1920 spent fuel assemblies in 48 Transnuclear TN-40 casks. In 1994, the Minnesota legislature enacted statutes authorizing NSP to store spent nuclear fuel at the ISFSI. 1994 Minn. Laws ch 641, arts. 1, 6 (codified at Minn. Stat §§ 116C.77-.80(1996)). The legislation authorized the immediate use of five casks and allowed the use of four additional casks upon a determination that NSP had: (1) Filed a license application with NRC for a separate dry cask storage facility in Goodhue County; (2) continued a good faith effort to implement the alternate site; and (3) arranged for the use of additional megawatts of wind power. The law also provided that NSP could not construct at the second site without first obtaining a Certificate of Site Compatibility from the Minnesota Environmental Quality Board (MEQB). The MEQB was authorized to certify that the alternative Goodhue County site was comparable to the independent spent fuel storage facility site located on Prairie Island.

NSP applied for a certificate from the MEQB in July 1995. It identified two possible sites for the Goodhue County spent fuel storage facility, both in Florence Township, south of the City of Red Wing.<sup>1</sup> On October 2, 1996, after receiving the report of a citizen Advisory Task Force, the MEQB determined that because of the additional risks it believed to be inherent in transporting spent nuclear fuel to a second site in Goodhue County away from PINGP, no other site in Goodhue County would be comparable to the Prairie Island facility and denied a certificate.

NSP's application to NRC included an emergency plan for the Goodhue County facility, which contained comments from the Minnesota Departments of Public Safety and Public Health, as well as the Goodhue County, Minnesota, Office of Emergency Management which coordinates emergency services within the county. NRC completed its acceptance review and docketed the NSP application on September 9, 1996. A "Notice of Consideration of Issuance of a Materials License for the Storage of

<sup>1</sup> One of these was the site chosen by NSP for inclusion in its application to NRC. It is described as being situated south of Frontenac Station, north of Wells Creek, and between Territorial Road and the CP Rail railroad tracks.