

calibration for the local power range monitor signals from every 1000 Effective Full Power Hours to every 2000 Megawatt Days per Standard Ton.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 4, 1996 (61 FR 64390). However, by letter dated June 20, 1997, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated September 18, 1995, and the licensee's letter dated June 20, 1997, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pottstown Public Library, 500 High Street, Pottstown, PA.

Dated at Rockville, Maryland, this 27th day of June 1997.

For the Nuclear Regulatory Commission.

**Frank Rinaldi,**

*Project Manager, Project Directorate I-2,  
Division of Reactor Projects—I/II, Office of  
Nuclear Reactor Regulation.*

[FR Doc. 97-17749 Filed 7-7-97; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-160]

### Georgia Institute of Technology, Georgia Tech Research Reactor; Issuance of Final Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC) has issued a Final Director's Decision Under 10 CFR 2.206 regarding the Georgia Tech Research Reactor at the Georgia Institute of Technology in response to a Petition received from Ms. Pamela Blockey-O'Brien (Petitioner), dated October 23, 1994. In issuing the Final Director's Decision, the NRC also considered subsequent letters from the Petitioner dated November 12 and December 4, 1994; and February 21, February 23, March 6, March 28, April 19, May 18, June 27, July 18, August 18, August 21, August 28, August 31, September 17, and October 27, 1995; and January 10, January 27, March 14, and May 24, 1996.

On October 23, 1994, the Petitioner requested (1) the shutdown and decontamination of the Georgia Tech

Research Reactor, (2) the revocation of liquid radioactive material release authority to all licensees, (3) the revocation of licenses that use the principle of "as low as reasonably achievable," (4) the termination of transportation of radioactive material by mail, and (5) the modification to posting requirements for radioactive material. A "Partial Director's Decision Under 10 CFR 2.206" (DD-95-15) dated July 31, 1995, addressed requests (2) through (5) and all the issues concerning request (1) except those management and security issues, which were related to issues pending in an ongoing licensing proceeding for the Georgia Tech Research Reactor. The Partial Director's Decision denied the requested actions based on the evaluation to that time. See DD-95-15, 42 NRC 20-45 (1995).

This Final Director's Decision addresses the issues related to management and security, which are the remaining bases for Petitioner's request for the shutdown and decontamination of the Georgia Tech Research Reactor. The Director of the Office of Nuclear Reactor Regulation has determined that these concerns do not provide a basis for taking the requested actions.

Accordingly, the remaining request of the Petition has been denied for the reasons stated in the "Final Director's Decision Under 10 CFR 2.206" (DD-97-16), the complete text of which follows this notice. The Final Director's Decision is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC.

A copy of this Final Director's Decision will be filed with the Secretary of the Commission for review in accordance with 10 CFR 2.206(c). As provided by that regulation, the Decision will constitute the final action of the Commission 25 days after the date of the issuance of the Decision, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 27th day of June 1997.

For the Nuclear Regulatory Commission.

**Frank J. Miraglia,**

*Acting Director, Office of Nuclear Reactor Regulation.*

### Final Director's Decision Under 10 CFR 2.206

#### I. Introduction

On October 23, 1994, Ms. Pamela Blockey-O'Brien (the Petitioner) filed a Petition with the U.S. Nuclear Regulatory Commission (NRC) staff pursuant to 10 CFR 2.206. This Petition requested that the NRC staff revoke the

license for the Georgia Tech Research Reactor (GTRR), shut down this research reactor and its support facilities, and remove all radioactive material and contamination offsite to a government-created "National Sacrifice [A]rea" such as the Savannah River or Oak Ridge facilities. In addition, the Petitioner requested that the NRC staff withdraw all license authority nationwide involving the discharging or dumping of any quantity of radioactive material into all the sewers or waters in the United States or oceans of the world, and withdraw all licenses to all nuclear facilities, including nuclear power plants (NPPs), that operate under "as low as reasonably achievable" (ALARA) principles. Finally, the Petitioner requested that the NRC staff prohibit the transportation of radioactive material by mail and modify every license issued to transporters of radioactive materials and builders of NPPs to require these parties to put, in 2 foot high letters, on everything they transport or build, the words "DANGER—RADIOACTIVE" and, in smaller letters, "there is no safe level of radiation, any exposure can effect health."

As bases for the request to shut down and decontaminate Georgia Tech Research Reactor, the Petitioner asserted that (1) a water flume comes out of the ground "destabilizing the reactor and the ground in some way;" (2) "[r]adiation levels in soil and vegetation climb markedly in GA EPD [Georgia Environmental Protection Division] documents" around the reactor; (3) there is no record of air monitoring ever having been done; (4) heavy rainfall causes water to back up in the sewer and drainage lines causing flooding of the reactor parking lot and campus, as well as causing sinkholes, "puff-ups" on campus ground, and welded-shut manhole covers to be blown off; (5) radioactive contaminants have been routinely discharged into the sanitary sewer from the reactor's waste water holding tank and contamination spread by backup of the sewage system; (6) should the reactor be further destabilized, the reactor and the tank holding cobalt-60 could "break apart," causing radioactive contaminants to "drain into groundwater/down sewers/into the runoff ditch;" (7) the reactor is in an earthquake zone; (8) there is absolutely no reason to keep the reactor operating; (9) security at the reactor is extremely lax; and (10) in case of an accident or terrorist attack, evacuation of the campus and downtown Atlanta would be impossible, especially during the 1996 Olympics.

In a Partial Director's Decision Under 10 CFR 2.206 dated July 31, 1995 (DD-

95-15), the Acting Director, Office of Nuclear Reactor Regulation (NRR), for the reasons stated in that decision, denied the Petitioner's requests except for the request that the NRC staff revoke the license of the GTRR, shut down this research reactor and its support facilities, and remove all radioactive material and contamination off site to a government created "National Sacrifice [A]rea" such as the Savannah River or Oak Ridge facilities, insofar as that request rested on bases numbers (8) and (9), and that portion of basis (10) that deals with potential terrorist attacks, as set forth above. See Georgia Institute of Technology (Georgia Tech Research Reactor), DD-95-15, 42 NRC 20, 40 n.37 (1995). (The portion of basis (10) that relates to evacuation and emergency planning also is discussed in DD-95-15, 42 NRC at 40-43.)

Basis (8) includes concerns that substantial management deficiencies persist. Basis (9) involves concerns about security. Basis (10) includes concerns about evacuation in case of a terrorist attack. Since these concerns were related to issues in an ongoing license renewal proceeding before an Atomic Safety and Licensing Board (ASLB), they were not addressed in DD-95-15. The Commission ordinarily expects the staff to deny a petition filed pursuant to 10 CFR § 2.206 that raises the same issues that are being considered in a pending adjudication on the basis of the pendency of the identical matters in a proceeding involving the same licensee or facility. Georgia Power Co. (Hatch Nuclear Plant, Units 1 and 2; Vogtle Electric Generating Plant, Units 1 and 2), CLI-93-15, 38 NRC 1, 2-3 (1993); see General Public Utilities Nuclear Corp. (Three Mile Island Nuclear Station Units 1 and 2; Oyster Creek Nuclear Generating Station), CLI-85-4, 21 NRC 561, 563-65 (1985); Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-81-6, 13 NRC 443, 446 (1981). (This general rule is not intended to bar a petitioner from seeking immediate enforcement action from the staff in circumstances in which the presiding officer is not empowered to grant such relief. Vogtle, 38 NRC at 3.) The same result can be achieved by the staff deferring consideration of issues raised in a petition filed pursuant to 10 CFR § 2.206 that are being considered in a pending proceeding involving the same licensee and facility, as was done with regard to Petitioner's concern regarding the management of the GTRR. The NRC staff received additional letters dated November 12 and December 4, 1994,

and February 21, February 23, March 6, March 28, April 19, May 18, June 27, and July 18, 1995, from the Petitioner and also considered these letters in DD-95-15.

This Final Director's Decision addresses the management concerns in issue (8) above and security concerns in issues (9) and (10) above for the request to shutdown and decontaminate the GTRR in the 10 CFR 2.206 Petition of October 23, 1994. The NRC staff received additional letters from the Petitioner dated August 18, August 21, August 28, August 31, September 17, and October 27, 1995; and January 10, January 27, March 14, and May 24, 1996. All letters related to this Petition were considered in this Final Director's Decision and have been placed in the Public Document Room and docketed under the GTRR Docket Number (50-160). For the reasons set forth below, the Petitioner's remaining request is denied.

## II. Discussion

### A. Management of the GTRR

Petitioner stated that "[t]here is no reason to keep the [GTRR] operating," and asserted that substantial management deficiencies persist. As stated above, DD-95-15 did not address the management issue since it had been admitted in a proceeding on the renewal of the license for the GTRR.

The history of the license renewal proceeding is set forth in the ASLB's Initial Decision in that proceeding. Georgia Institute of Technology (Georgia Tech Research Reactor), 45 NRC \_\_\_\_\_, LBP 97-7, slip op. at 1-5 (April 3, 1997). A copy of that decision was sent to the Petitioner. In the Initial Decision, the ASLB concluded, in part, that:

1. The Applicant's performance in the post-restart period, although not entirely satisfactory, has substantially improved since the shutdown of the reactor in 1988. Further, Georgia Tech's performance in the post-restart period does not support GANE's assertion that management of the GTRR is inadequate and that the license renewal application should therefore be denied. Nor has GANE met its burden of demonstrating that "substantial management deficiencies persist."

2. . . . We conclude that GANE has not demonstrated "management improprieties or poor 'integrity' . . . [that] relate directly to the proposed licensing action," or that "the GTRR as presently organized and staffed [fails to] provide reasonable assurance of candor and willingness to follow NRC regulations." Moreover, the evidence supports findings that "the facility's current management encourages a safety-conscious attitude, and provides an environment in which employees feel they can freely voice safety concerns," and there is "reasonable

assurance that the GTRR facility can be safely operated" in that "the GTRR's current management [n]either is unfit [n]or structured unacceptably."

3. The Applicant's management of the Georgia Tech Research Reactor complies with all applicable regulatory requirements, and provides reasonable assurance that its management of the GTRR facility, upon the renewal of the License No. R-97, will not be inimical to the common defense and security or to the health and safety of the public. . . . Id. at 82-83 (citations omitted).

The ASLB's Initial Decision considered all the evidence submitted on the record during the proceeding. The Petitioner did not submit any information to the NRC in support of its Petition that was significantly different from the evidence considered by the ASLB in the license renewal proceeding on the management issue.

Since the ASLB proceeding record closed in June 1996, four additional NRC inspections of the GTRR facility have been conducted (NRC Inspection Reports No. 50-160/96-02, 50-160/96-03, 50-160/96-04 and 50-160/96-05 which were sent to the Petitioner). Three of the inspections found no violations; the violations that were found and documented in NRC Inspection Report No. 50-160/96-02 do not provide a basis for changing the NRC staff's conclusion with regard to Georgia Tech's management of the facility.

The NRC staff's inspection findings subsequent to the close of the ASLB record do not provide a basis for concluding that substantial management deficiencies have arisen with regard to the GTRR since the record in the license renewal proceeding closed. The Petitioner does not otherwise provide any information that would be a basis for the NRC staff to conclude at this time that the management and organization of the Georgia Tech Research Reactor fails to comply with the Atomic Energy Act and NRC regulations. Although the Petitioner in very broad terms opposes operation of the facility, the application makes clear that its intended purpose is in keeping with lawful uses authorized in the Atomic Energy Act of 1954, as amended. The proposed operation has been found to acceptably comply with all applicable NRC regulatory requirements. Based on the foregoing, the NRC staff concludes that no information has been provided on this issue to warrant the action requested by the Petitioner.

### B. Security Issues

Petitioner raised two issues regarding security, asserting that (1) security at the GTRR is extremely lax and (2) in case of accident or terrorist attack,

evacuation of the campus and downtown Atlanta would be impossible, especially during the 1996 Olympics. These two issues are discussed below.

Georgia Tech has implemented a security plan for the research reactor that is consistent with the applicable requirements of 10 CFR Part 73, "Physical Protection of Plants and Materials." This has been confirmed through the relatively recent NRC safeguards and security related inspection activities in NRC Inspection Reports No. 50-160/95-02, 50-160/95-04, 50-160/95-05, 50-160/96-01, 50-160/96-03, and 50-160/96-04. (Inspection Reports No. 50-160/95-02, 50-160/95-04, and 50-160/96-01 were admitted into evidence in the license renewal proceeding.)

Inspection Report No. 50-160/95-02 identified a violation for a failure to submit material status reports in a timely manner. Otherwise the inspection found that the safeguards and security activities were acceptable.

On October 26, 1995, a television news media crew entered the Neely Nuclear Research Center, which houses the GTRR, and explored and filmed portions of the center. In response, the NRC conducted an inspection of the GTRR from October 3 to November 3, 1995, as documented in NRC Inspection Report No. 50-160/95-04, which states:

This Special announced safeguards inspection was conducted to review the circumstances surrounding an uninvited tour of portions of the Neely Nuclear Research Center by a television news media crew which occurred, apparently, on the morning of October 26, 1995. . . . Neither the licensee nor the inspector could find any evidence of a security breach of the protected area. One licensee employee was identified who had seen parts of the video made by the television crew supposedly on October 26, 1995; according to that employee, the video shows two security doors being challenged by the television crew which remained locked. This employee stated that the video shows the crew touring interior and exterior areas of the Center which are open to the public or students and staff. On November 10, the inspector viewed the television showing of the video taken during this event and could find no indication that the television crew had unauthorized access to the protected/radiation controlled area. . . . No violations or deviations were identified.

In view of these inspection findings, the television media crew's tour is not a basis for granting the Petitioner's request.

The ASLB discussed these events in the context of the contention regarding management deficiencies, and made findings of fact consistent with this conclusion. LBP 97-7, slip op. at 51-57. It stated:

Upon review of the evidence of this event, we agree with the [s]taff that the Fox Television film crew's intrusion into the reactor complex does not reflect inadequate management by the [a]pplicant. To the contrary, the security plan appears to have worked as intended, in compliance with applicable regulatory requirements. Further, as observed by the [s]taff, the [a]pplicant's subsequent decision to upgrade its security measures beyond the requirements of the security plan may be viewed as demonstrating good managerial judgment. Thus, this matter does not provide grounds for denying or conditioning the license.

Id. at 56-57 (Citation omitted).

Inspection Report No. 50-160/95-05 refers to the inspection conducted December 5-7, 1995:

The special inspection addressed the facility's reactor status, physical inventory determinations, and other activities associated with maintaining a material control and accounting program within regulatory requirements, the licensed possession limit, and authorized uses of special nuclear material. . . . Within the scope of the inspection, no non-compliance issues were identified. The inspector determined that the licensee had implemented adequate controls for special nuclear material (SNM), and that accurate SNM accounting records were being maintained.

Inspection Report No. 50-160/96-01 refers to the inspection conducted on January 17 and 18, 24 and 25, 29 and 30, and February 5-7, 9, 15-18, and March 15, 1996. This inspection examined security provisions for fuel processing and shipment offsite. As an additional precaution in regards to security during the Olympic Games, the licensee had determined to remove all GTRR fuel from the facility prior to the Games and not to replace it until after the Games. The inspection found that in addition to meeting regulatory requirements the licensee provided additional measures (e.g., a guard was assigned to various observed activities).

Inspection Report No. 50-160/96-03 refers to the inspection conducted on June 17, 18, and 27, and July 3, 5, and 11, 1996. This inspection included onsite and offsite review of security preparations for the Olympic Games. The inspection concluded: "The controls implemented by the licensee and the precautions taken are adequate to protect licensee personnel and the public."

The inspection documented in Inspection Report No. 50-160/96-04 was conducted on July 17 and 29, 1996. This inspection reviewed the preparation for the Summer Olympic Games and found that:

[T]he university had taken additional safeguards measures to control access to the

Campus and to the Research Control Area. The licensee had taken additional safeguards measures to control access to the Neely Nuclear Research Center (NNRC). The additional security measures taken as a result of the 1996 Olympic Games were reviewed and/or observed by the inspectors. . . . On July 17 and 29, 1996, the inspectors visited the Neely Nuclear Research Center, met with the Director of the Center, toured the facility and verified continued compliance with the Physical Security Plan (PSP). The inspectors were granted unfettered access to the Research Control Area as well as to the Center and emergency access during the Olympics was assured because the inspectors and selected management of Region II had been provided with special picture badges to facilitate NRC response. The presence of military police, Campus police and additional State and Federal law enforcement officers in the immediate vicinity of the Center was observed by the inspectors. The access controls, barriers, assessment capabilities, communication capabilities and detection equipment required by the NRC were in place. Additional exterior lights had been installed by the licensee to assist patrolling officers. Additional fencing around the Center was also noted by the inspectors. . . . The inspector concluded that the licensee was meeting NRC requirements and had effectively imposed proactive security measures.

With regard to the contention on the physical security of the site during the 1996 Summer Olympic Games held in Atlanta, Georgia, the ASLB decision observed that "the Applicant, responding to several Commission inquiries relative to security at the Olympic Games, determined to remove all nuclear fuel from the site prior to the Olympic Games and not to replace it until after the Games. The Commission accordingly remanded the security contention to us for appropriate action \* \* \* and we issued a Partial Initial Decision dismissing the contention as moot." LBP-97-7, slip. op. at 4. See Georgia Institute of Technology (Georgia Tech Research Reactor), LBP-95-19, 42 NRC 191 (1995).

In summary, the physical security plan was verified to provide acceptable procedures for event response and access control, and the security preparations for the Olympics were acceptable. Observations of the facility and activities confirmed the use of security-related equipment and controls as required by the physical security plan and consistent with the special nuclear material that is present at the facility. The Petitioner asserted that security at the research reactor was lax; however, access is controlled and monitored as required. Further, this evaluation confirmed the continued acceptability of the security provisions to deal with potential terrorists attacks. The findings do not provide a basis for changing the

conclusion reached in DD-95-15 on the adequacy of emergency plans for the facility. DD-95-15, 42 NRC at 40-43. The NRC staff has found no reason to conclude that the security at the reactor is not acceptable. The Petitioner provided no facts to conclude otherwise.

### III. Conclusion

With regard to the requests made by the Petitioner discussed herein, the NRC staff finds no basis for taking such actions. Accordingly, the Petitioner's requests for action, pursuant to Section 2.206 on the Georgia Tech Research Reactor, are denied.

A copy of this Decision will be filed with the Secretary for the Commission as provided by 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes review of the Decision in that time.

Dated at Rockville, Maryland, this 27th day of June 1997.

For the Nuclear Regulatory Commission.

**Frank J. Miraglia,**

*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 97-17750 Filed 7-7-97; 8:45 am]

BILLING CODE 7590-01-P

### POSTAL SERVICE

#### Revised Publication 401, Guide to the Manifest Mailing System

**AGENCY:** Postal Service.

**ACTION:** Notice.

**SUMMARY:** This notice presents pending revisions to the Postal Service's Publication 401, Guide to the Manifest Mailing System. This publication is the customer's and Postal Service's handbook for submitting and accepting manifest mailings. It has been updated and revised to reflect changes that have taken place in the last 4 years that affect the submission and acceptance of manifest mailings. The Postal Service expects the updated publication to be available this fall.

To ensure that this publication continues to meet the needs of customers, the Postal Service is seeking comments from users of manifest mailing systems and developers of manifest software regarding the focus of the program revisions described in this notice.

**DATES:** Comments must be received on or before August 7, 1997.

**ADDRESSES:** Written comments should be mailed or delivered to the Manager, Business Mail Acceptance, 475 L'Enfant Plaza SW, Room 6801, Washington, DC 20260-6808. Copies of all written comments will be available at the above address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Tom Amonette, (317) 870-8246.

**SUPPLEMENTARY INFORMATION:** The following information summarizes the most significant revisions.

The language of Publication 401 is updated to reflect changes due to classification reform. The procedures, checklists, and forms are updated to enhance and expedite the processing of applications to manifest and the acceptance of manifest mailings. The Manifest Analysis and Certification (MAC) program, certifying vendor software for single-piece rate manifests, is integrated into the manifest program to expedite the approval process.

There is a change in the approval process. Systems that calculate postage for single-piece rate domestic mail without special services entered at the office where the mailings are verified will now be approved by district postal officials rather than by the rates and classification service centers (RCSCs). This change will expedite the application and approval process. All other systems will continue to require final approval by the RCSC serving the mailer's location. In conjunction with this, the application form is reduced from eight pages to three pages.

Several new forms have been developed. A new postage statement, PS Form 3660, Combined Postage Statement for Manifest Mailings, makes it possible for mailers to pay postage for a manifest mailing of single-piece rate mixed classes of domestic mail (e.g., Priority Mail, First-Class Mail, and Parcel Post) on one postage statement, instead of having to report each individual class on a separate postage statement. A new sampling form will be used for recording the postage samplings for batch manifest mailings.

All of the exhibits have been updated and enhanced, and 11 new manifest exhibits have been developed to present the information more clearly. Additional information is included about international mail manifests and manifests including pieces with special services.

A change in the sampling procedure and postage error calculation for manifested piece/pound rate Standard Mail (A) makes the error calculation more accurate and equitable. It now

compares actual postage amounts rather than weight amounts to determine the accuracy level.

Another change affects the method of adjusting postage for mailings that are out of tolerance. To determine the accuracy of the postage claimed for a manifest mailing, the Postal Service randomly samples a specified number or percentage of pieces from the mailing and compares the postage claimed on the manifest with the actual postage. If there is a difference and the difference exceeds  $\pm 1.5\%$ , then the mailing is considered to be out of tolerance. Prior to publication of the July 1993 edition of Publication 401, postage was adjusted up or down by the percentage out of tolerance and a 10% penalty was assessed when the mailing exceeded the accuracy tolerance. The 10% penalty was rescinded with implementation of the July 1993 version of Publication 401 and postage was only adjusted up or down by the percentage out of tolerance.

The accuracy level of  $\pm 1.5\%$  is used to determine whether a mailer's system is functioning properly. If a mailer exceeds the limit frequently, it indicates that the mailer's system is not functioning properly and should be corrected. A revision in this version of Publication 401 eliminates the adjustment of postage downward if the accuracy level is lower than minus 1.5%. The Postal Service has found that far fewer than 1% of all manifest mailings nationwide require postage adjustment downward and believes that this change will not adversely impact manifest mailers because most such systems stay within the tolerance limits.

Those systems that frequently need adjustments to ensure accurate postage payment need to be modified to meet the tolerance level. Frequent system reporting errors cause the mailer and the Postal Service to incur increased administrative costs. If a system regularly exceeds the tolerance levels, then the mailer and the Postal Service are required to sample more frequently. One of the key requirements for mailers authorized to mail under a MMS is the responsibility of ensuring the accuracy of the system. As with all mailing systems, the Postal Service will make allowances for those instances when a usually accurate system breaks down, and it can be shown that adjusting postage downward is justified. In those cases, the mailer can apply to the administering RCSC for a refund.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 97-17674 Filed 7-7-97; 8:45 am]

BILLING CODE 7710-12-P