

March 7, 2002

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Brian W. Sheron, Associate Director **/RA/**
for Project Licensing and Technical Analysis
Office of Nuclear Reactor Regulation

SUBJECT: JANUARY/FEBRUARY 2002 REPORT ON THE STATUS OF PUBLIC
PETITIONS UNDER 10 CFR 2.206

The attached report for January and February 2002 gives the status of 10 CFR 2.206 petitions as of February 28, 2002. Currently, there are four open petitions, which have been accepted for review under the 2.206 process, three in the Office of Nuclear Reactor Regulation, and one in the Office of Nuclear Material Safety and Safeguards.

Attachment 1 provides the detailed status of the open petitions. Attachment 2 shows the age statistics for the open 2.206 petitions as of February 28, 2002. Attachment 3 shows the statistics for all 2.206 petitions processed in the past 12 months.

This report and recently issued Director's Decisions are placed in the Agencywide Documents Access and Management System, making them readily accessible to the public.

Attachments: As stated

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Report on Status of Public Petitions Under 10 CFR 2.206
February 28, 2002
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Attachment 1

Report on Status of Public Petitions Under 10 CFR 2.206

Facilities:	<u>Salem Nuclear Generating Station, Unit Nos. 1 and 2</u> <u>Hope Creek Generating Station</u> <u>Oyster Creek Nuclear Generating Station</u>
Petitioner:	Norm Cohen, Unplug Salem Campaign
Date of Petition:	9/17/2001
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	9/19/2001
EDO Numbers:	G20010389
Scheduled Completion Date:	4/30/2002
Last Contact with Petitioners:	1/9/2002
Petition Manager:	R. Fretz
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioner requested that the U.S. Nuclear Regulatory Commission (NRC) order either the closure of, or an immediate security upgrade at, the Salem Nuclear Generating Station, Unit Nos. 1 and 2, Hope Creek Generating Station, and Oyster Creek Nuclear Generating Station. In addition, the petitioner requested that: (1) the plants' defenses be upgraded to withstand a jet crash similar to that which occurred at the World Trade Center (WTC) on September 11, 2001; (2) all the spent fuel pools be brought into the containment buildings until a new jet bomber-proofed containment is built for them; (3) the NRC triple the number of Operational Safeguards Response Evaluation (OSRE) security inspections; and (4) the NRC cancel proposals to allow nuclear power plants to conduct their own security inspections.

Background:

The events of September 11, 2001, were cited as the basis for the request, with the petitioner stating that the four New Jersey nuclear power plants are vulnerable to terrorist threats, including a suicide airplane attack similar to that experienced at the WTC.

Two closed Petition Review Board (PRB) meetings were conducted on November 19, 2001, and November 29, 2001, to consider the merits of the requested actions. The PRB concluded that the petition met the threshold for processing under 10 CFR 2.206, and that the details provided in the petitioner's request were found sufficient to warrant further inquiry (Part III of Management Directive (MD) 8.11). An acknowledgment letter and a single *Federal Register* notice common to this and two other similar petitions (see pages 3 and 4) were issued on December 20, 2001.

The petitioner was contacted on December 7, 2001, and informed of the staff's progress to date. The petitioner was informed that the NRC had advised all NRC licensees, after the September 11, 2001, terrorist attack on the WTC, to go to the highest level of alert, which they promptly did. Since there were no credible threats, there was no need to order the plants to shut down. However, the petitioner's immediate action requests were, in effect, partially granted in that the NRC had taken actions in response to the September 11, 2001, event by issuing many safeguards and threat advisories to the industry. The petitioner was informed that the NRC will follow the 10 CFR 2.206 petition process as explained in MD 8.11 to the extent possible without compromising sensitive information.

Current Status:

The petitioner was contacted again on January 9, 2002, and informed of the progress on this petition and the scheduled completion date of April 30, 2002. Orders were sent to all licensees on February 25, 2002, to formalize the heightened security measures and to require certain additional enhancements. A PRB meeting was held on February 28, 2002, to determine the staff actions in response to the Orders. The PRB decided to issue separate Director's Decisions for each of the security-related petitions discussed on pages 2, 4, and 5 rather than combine in one response.

Facility:	<u>All Operating Nuclear Power Plants (103) in the U. S.</u>
Petitioner(s):	Michael D. Kohn, National Whistleblower Center
Date of Petition and Supplement:	10/24/2001 and 1/16/2002
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	10/26/2001
EDO Numbers:	G20010485
Scheduled Completion Date:	4/30/2002
Last Contact with Petitioners:	12/20/2001 (phone calls made on 02/20 and 02/27/02 were not returned)
Petition Manager:	G. Shukla
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioner requested that the NRC take immediate short-term and long-term corrective actions to protect the public against the possibility of terrorists seizing control of a large commercial jetliner and crashing into a nuclear power plant in the United States. The petitioner also requested that the NRC staff take certain specified compensatory measures to protect the public and the environment from the catastrophic impact of a terrorist attack on a nuclear power plant or a spent fuel pool.

Background:

As a basis for the above requests, the petitioner states that no commercial nuclear power plant located within the United States was designed to withstand the impact of a large commercial airliner. The petitioner cites the plants' inability to be protected against terrorist attacks, including a suicide airplane attack similar to the attack on the World Trade Center (WTC). The petitioner discusses NRC's failure to adequately assess risk of malevolent airborne attacks, failure to adequately assess the risk of terrorist attacks at spent fuel storage facilities, and failure to adequately protect nuclear power plants from terrorist attacks.

Current Status:

There are two other petitions with similar requests concerning the security of nuclear power plants in the U.S. subsequent to the terrorist attacks on the WTC on September 11, 2001. (See pages 2 and 4 for the current status of these petitions).

The petitioner was contacted on December 7, and 20, 2001, and informed of the staff's progress to date. The petitioner was informed that the NRC had advised all NRC licensees, after the September 11, 2001, terrorist attack on the WTC, to go to the highest level of alert, which they promptly did. Since there were no credible threats, there was no need to order the plants to shut down. However, the petitioner's immediate action requests were, in effect, partially granted in that the NRC had taken actions in response to the September 11, 2001, event by issuing many safeguards and threat advisories to the industry. Furthermore, Orders were sent to all licensees on February 25, 2002, to formalize the heightened security measures and to require certain additional enhancements. The petitioner was informed that the NRC will follow the 10 CFR 2.206 petition process as explained in Management Directive 8.11 to the extent possible without compromising sensitive information. An acknowledgment letter and a single *Federal Register* notice common to this and two other similar petitions (see pages 2 and 4) were issued on December 20, 2001. By letter dated January 16, 2002, Winston & Strawn provided comments on the petition on behalf of several licensees, in support of the NRC

acknowledgment letter to Michael D. Kohn dated December 20, 2001. These comments will be considered in preparing the Director's Decision, which is scheduled for issuance on April 30, 2002.

Facility:	<u>Indian Point Units 2 and 3</u>
Petitioner(s):	Alex Matthiessen/Karl Coplan/Pace Environmental Litigation Clinic, Inc., Riverkeeper, Inc., et al.
Date of Petition:	11/8/2001, plus several supplements
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	11/9/2001
EDO Numbers:	G20010508, G20010556, G20010567, G20020034, G20020051, G20020064, G20020073, G20020085, G20020092, G20020095, G20020096, G20020097, and G20020098
Scheduled Completion Date:	4/30/2002
Last Contact with Petitioners:	01/07/2002
Petition Manager:	P. Milano
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioners request that: (1) the NRC issue an order to the Indian Point 2 and 3 licensee for a temporary shutdown to conduct a full review of vulnerabilities, security measures, and evacuation plans; (2) the NRC require the licensee to provide sufficient information about security for NRC to determine their ability to meet realistically expected threats and contemplate making the measures permanent; (3) the NRC mandate specifically listed measures to set up and protect a permanent no-fly zone and a defensive system to protect the "entire facility"; and (4) a revision be made to the emergency planning to include terrorists risks and multiple attacks on the infrastructure used in an evacuation. Finally, the petitioner requested that the NRC shut down the Indian Point facility permanently if security cannot be sufficiently ensured, and order the immediate conversion from spent fuel storage pools to a dry cask system.

Background:

As a basis for the above requests, the petitioners state that no commercial nuclear power plant located within the United States was designed to withstand the impact of a large commercial airliner. The petitioners cite the plant's inability to be protected against terrorist attacks, including a suicide airplane attack similar to the attack on the World Trade Center (WTC).

On November 21, 2001, the Village of Hastings-on-Hudson, New York, submitted its Board of Trustees' resolution calling for action very similar to that of the above petitioner and citing the same bases. Since the resolution did not make reference to 10 CFR 2.206, the Village Clerk was contacted on December 27, 2001, to explain the petition process and discuss the existing petition. The Village Clerk asked to have this resolution treated as a supplement to the existing petition. A response letter was sent to Hastings-on-Hudson on January 29, 2002.

On November 26, 2001, the Village of Croton-on-Hudson, New York, in accordance with their Board of Trustees Resolution, requested that they too join the Riverkeeper, Inc., et al. as a co-petitioner. The PRB acceded to the request and recommended that they be included and

acknowledged along with the rest of the petitioners. A response letter was sent to the co-petitioner on December 20, 2001.

Mr. Matthiessen was contacted on December 20 and 27, 2001, and informed of the staff's progress to date. An acknowledgment letter and a single *Federal Register* notice common to this and the two other similar petitions (see pages 2 and 3) were issued on December 20, 2001. The petitioners were informed that the NRC had advised all NRC licensees, after the September 11, 2001, terrorist attacks, to go to the highest level of alert, which they promptly did. Since there were no credible threats, there was no need to order the plants to shut down. However, the petitioner's immediate action requests were, in effect, partially granted in that the NRC had taken actions in response to the September 11, 2001, event by issuing many safeguards and threat advisories to the industry. Furthermore, Orders were sent to all licensees on February 25, 2002, to formalize the heightened security measures and to require certain additional enhancements. The petitioners were informed that the NRC will follow the 10 CFR 2.206 petition process as explained in Management Directive 8.11 to the extent possible without compromising sensitive information.

Current Status:

Alex Matthiessen, one of the petitioners, was contacted on January 7, 2002. He requested a meeting with the PRB. The PRB decided at its meeting on January 24, 2002, that such a meeting was unnecessary because the petitioners did not indicate that they had additional information to provide to the staff.

The NRC received numerous letters from individuals endorsing the requests of the petitioners. The staff will acknowledge receipt of their letters.

The NRC also received letters from the Town of Stony Point, dated December 12, 2001, and the Bedford Central School District, dated December 13, 2001. These letters make identical requests to the Riverkeeper petition and the petitions from the Villages of Hastings and Croton-on-Hudson. The staff will treat the Town of Stony Point and the Bedford Central School District as co-petitioners, and their letters as supplements to the petition. A response letter was sent to the Town of Stony Point on February 5, 2002. A letter to the Bedford Central School District is in concurrence.

Also included as part of this petition are letters received from Nyack Public Schools, the Peace and Community Action Committee, the Village of Dobbsferry, the Town of Newcastle, and the Hastings-on-Hudson school district in February 2002.

A PRB meeting was held on February 28, 2002, to determine staff actions in response to the Orders issued on 2/25/02 and the numerous supplements received recently. The PRB decided to issue separate Director's Decisions for each of the security-related petitions discussed on pages 2, 3, and 4 rather than combine in one response.

Utility	Carolina Power & Light (CP&L)
Petitioner:	Jim Warren of North Carolina Waste Awareness and Reduction Network (NC WARN)
Date of Petition:	November 5, 2001 and February 12, 2002
Director's Decision to Be Issued by:	NMSS
Date Referred to Review Organization:	12/11/01
EDO Number:	G200100461
Scheduled Completion Date:	05/31/02
Last Contact with Petitioner:	01/31/02
Petition Manager:	David Pstrak
Case Attorney:	Jack Goldberg

Issues/Action Requested:

The petitioner requests that NRC require CP&L to halt rail shipments of spent nuclear fuel. The petitioner stated that DOE suspended a shipment of fuel assemblies due to the threat of terrorist attacks on the shipment during transport. The petitioner believes the NRC should also require CP&L to suspend rail shipments of irradiated fuel indefinitely to ensure the safety of the citizens in North Carolina.

Background:

The petitioner states that the DOE suspended a shipment of spent fuel assemblies following the terrorist attacks of September 11, 2001, because of the potential for a terrorist attack on the shipment. The petitioner requests that NRC require indefinite postponement of all spent fuel shipments within the CP&L system. The petitioner states that failure to do so would indicate a conflict between DOE and NRC positions on the safety of rail shipments of spent fuel.

Current Status:

The PRB met on January 16, 2002, and agreed that the incoming petition meets the criteria to be considered under the 2.206 process. The PRB decided not to grant the part of the petition that requested immediate action to halt the rail shipments of spent fuel within the CP&L system. The PRB determined it was appropriate to send an acknowledgment letter to Mr. Warren, and it was issued on January 31, 2002.

The petitioner sent the Chairman another letter dated February 12, 2002, in which he requested once again that NRC halt the shipments of spent fuel by CP&L to the Harris Plant. This letter is being treated as a supplement to the original petition. A response letter is being developed and will be structured around the pending interim compensatory measures.

Attachment 2
AGE STATISTICS FOR AGENCY 2.206 OPEN PETITIONS
As of February 28, 2002

ASSIGNED ACTION OFFICE	PETITION NUMBER	FACILITY	Acknowledgment Date	AGE (days)*	Scheduled Completion Date	Comments if not meeting the Agency's 120-day Completion Goal
NRR	G20010389	Salem 1, 2, Hope Creek, Oyster Creek	12/20/2001	42	4/30/2002	-
NRR	G20010485	All 103 Nuclear Power Plants in the U.S.	12/20/2001	42	4/30/2002	-
NRR	G20010508, G20010556, G20010567, G20020034, G20020051, G20020064, G20020073, and G20020085	Indian Point 2, 3	12/20/2001	42	4/30/2002	
NMSS	G200100461	Carolina Power & Light/ Progress Energy (CP&L)	02/01/02	0		

*Age calculated from the date of the acknowledgment letter.

Note: The two columns representing resources expended by the action office and OGC have been deleted from the table because the information is difficult to obtain on a monthly basis and is of marginal utility for purposes of this report.

Attachment 3
Table on Status of Public Petitions
Under 10 CFR 2.206 for DDs Issued During the Last 12 Months

Petition Number	Assigned Action Office	Facility	Petition Date	DD Date	Age at Closure ^{1,2} (Months)	Comments
G19990011	NMSS	Moab Site of Atlas Corp.	1/11/1999	5/7/2001*	N/A	Petition Moot and Closed
G20000568	NRR	Indian Point Unit 2	12/4/2000	7/25/2001	4	Partly Granted
G20010159	NRR	All Licensees using Wackenhut Security	4/24/2001	9/28/2001	4	Partly Granted

1) Age calculated from the date of the acknowledgment letter to the proposed Director's Decision issuance.

2) Goals: Acknowledgment letter issued within 5 weeks from date of receipt; proposed DD issued within 4 months of acknowledgment letter.

* No DD issued on this petition.