

extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) The possible effect of any decision or order which may be entered in the proceeding on the requesters/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board

that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)-(viii).

A request for a hearing and a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; (2) Courier, express mail, or expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HEARINGDOCKET@NRC.GOV; or (4) Facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A request for hearing and petition for leave to intervene filed by e-mail or facsimile transmission need not comply with the formal requirements of 10 CFR 2.304 (b) (c) and (d) if an original and two (2) copies that otherwise comply with the requirements of Section 2.304 are mailed within two (2) days of the filing by e-mail or facsimile transmission to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by email to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to Peter Marquardt, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226-1279, the attorney for the licensee.

For further details with respect to this action, see the application for amendment dated April 1, 2004, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet

at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>.

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 16th day of August, 2004.

For the Nuclear Regulatory Commission.

David P. Beaulieu,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-247 and 50-286; License Nos. DPR-26 and DPR-64]

Entergy Nuclear Operations, Inc.; Notice of Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Nuclear Reactor Regulation, has issued a Director's Decision with regard to a Petition dated April 23, 2003, filed by the Honorable Richard Blumenthal, hereinafter referred to as the "Petitioner." The Petition was supplemented on June 3 and October 16, 2003. The Petition concerns the operation of the Indian Point Nuclear Generating Unit Nos. 2 and 3 (IP2 and 3).

The Petition requested that the Nuclear Regulatory Commission (NRC) take the following actions: (1) Order the licensee for IP2 and 3 to conduct a full review of the facility's (a) vulnerabilities and security measures and (b) evacuation plans and, pending such review, suspend operations, revoke the operating license, or take other measures resulting in a temporary shutdown of IP2 and 3; (2) require the licensee to provide information documenting the existing security measures which protect the IP facility against terrorist attacks; (3) immediately modify the IP2 and 3 operating licenses to mandate a defense and security system sufficient to protect the entire facility from a land-or water-based terrorist attack; (4) order the revision of the licensee's Emergency Response Plan and the Radiological Emergency Response Plans for the State of New York and the counties near the plant to account for possible terrorist attacks; and (5) take prompt action to permanently retire the facility if, after

conducting a full review of the facility's vulnerabilities, security measures, and evacuation plans, the NRC cannot sufficiently ensure the security of the IP facility against terrorist threats or cannot ensure the safety of New York and Connecticut citizens in the event of an accident or terrorist attack.

The Petitioner's representative participated in a teleconference with the Petition Review Board (PRB) on June 19, 2003, to discuss the Petition. This teleconference gave the Petitioner and the licensee an opportunity to provide additional information and to clarify issues raised in the Petition as supplemented. The results of this discussion were considered in the PRB's determination regarding the request for immediate action and in establishing the schedule for reviewing the Petition.

In a letter dated July 3, 2003, the PRB notified the Petitioner that it had determined that his request would be treated pursuant to 10 CFR 2.206 of the Commission's regulations. The July 3, 2003, letter further stated: "In response to your requests for immediate actions contained in items 1, 2, 3, and 4 above, the NRC has, in effect, partially granted your requests."

The NRC sent a copy of the proposed Director's Decision to the Petitioner and to Entergy Nuclear Operations, Inc. (the licensee), for comment on May 17, 2004. The Petitioner responded with comments on June 18, 2004. The comments and the NRC staff's response to them are included in the Director's Decision.

The Director of the Office of Nuclear Reactor Regulation has determined that the NRC's actions have, in effect, partially granted the Petitioner's request for an immediate review of vulnerabilities, security measures, and evacuation and emergency response planning at IP2 and 3. In addition, the NRC previously issued a Director's Decision on November 18, 2002, which addresses many of the security measures and emergency planning issues raised in this Petition. *See* Indian Point, 56 NRC at 300-311. No further action is deemed necessary to address the Petitioner's request regarding these issues. Subsequent to that November 18, 2002, Director's Decision, the NRC in its April 29, 2003, Orders required IP and other plants to implement additional security measures. Moreover, on July 25, 2003, the Federal Emergency Management Agency (FEMA) determined that reasonable assurance existed that appropriate protective measures to protect the health and safety of communities around IP2 and 3 can be implemented in the event of a radiological incident at the IP facility.

See 68 FR 57702 (October 6, 2003). FEMA reaffirmed this position in a letter to the Petitioner dated June 1, 2004. Consequently, the NRC denies the remainder of the Petitioner's requests. The reasons for this decision are explained in the Director's Decision pursuant to Title 10 of Code of Federal Regulations (10 CFR) Section 2.206 (DD-04-03), the complete text of which is available in ADAMS for inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on the NRC's Web site, <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room).

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

Dated at Rockville, Maryland, this 17th day of August 2004.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement.

SUMMARY: On November 5, 2003 (68 FR 62642), the Commission issued, for public comment, a draft policy statement on the treatment of environmental justice (EJ) matters in Nuclear Regulatory Commission (NRC) regulatory and licensing actions. This final policy statement reaffirms that the Commission is committed to full compliance with the requirements of the National Environmental Policy Act (NEPA) in all of its regulatory and licensing actions. The Commission recognizes that the impacts, for NEPA purposes, of its regulatory or licensing actions on certain populations may be

different from impacts on the general population due to a community's distinct cultural characteristics or practices. Disproportionately high and adverse impacts of a proposed action that fall heavily on a particular community call for close scrutiny—a hard look—under NEPA. While Executive Order (E.O.) 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," characterizes these impacts as involving an "environmental justice" matter, the NRC believes that an analysis of disproportionately high and adverse impacts needs to be done as part of the agency's NEPA obligations to accurately identify and disclose all significant environmental impacts associated with a proposed action. Consequently, while the NRC is committed to the general goals of E.O. 12898, it will strive to meet those goals through its normal and traditional NEPA review process. This final policy statement reflects the pertinent comments received on the published draft policy statement.

DATES: Effective August 24, 2004.

FOR FURTHER INFORMATION CONTACT:

Brooke G. Smith, Office of General Counsel, Mail Stop O-15D21, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: (301) 415-2490; fax number: (301) 415-2036; e-mail: bgs@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background.

II. Summary of Public Comments and Responses to Comments.

- (A) General Comments
- (B) Creation of New or Substantive Rights
- (C) NEPA as a Basis for Considering Environmental Justice-Related Matters
- (D) Racial Motivation
- (E) Environmental Assessments
- (F) Generic/Programmatic EISs
- (G) Numeric Criteria
- (H) Scoping/Public Participation

III. Final Policy Statement.

IV. Guidelines for Implementation of NEPA as to Environmental Justice Issues.

I. Background

In February 1994, President Clinton issued E.O. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," which directed each Federal agency to " * * * make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. * * *" Executive Order No. 12898 (Section 1-101), 59 FR 7629 (February 16, 1994). Although