

October 17, 2006

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Gary M. Holahan, Associate Director **/RA/**
for Risk Assessment and New Projects
Office of Nuclear Reactor Regulation

SUBJECT: SEPTEMBER 2006 REPORT ON THE STATUS OF PUBLIC
PETITIONS UNDER TITLE 10 OF THE *CODE OF FEDERAL
REGULATIONS*, SECTION 2.206

The enclosed report gives the status of petitions submitted under Title 10 of the *Code of Federal Regulations*, Section 2.206. As of September 30, 2006, there were three open petitions that were accepted for review under the 2.206 process; two in the Office of Nuclear Reactor Regulation (NRR) and one in the Office of Nuclear Material Safety and Safeguards. Information that has changed since the last monthly report is highlighted.

Enclosure 1 provides a detailed status of the open petitions.

Enclosure 2 provides the status of incoming letters that the staff is reviewing to determine if they meet the criteria for review under the 2.206 process.

Enclosure 3 shows the age statistics for the open 2.206 petitions as of September 30, 2006.

This report, Director's Decisions, and other 2.206-related documents are placed in the Agencywide Documents Access and Management System. By making these documents readily accessible to the public, the staff is addressing the performance goal of ensuring openness in our regulatory process.

Enclosures: As stated

CONTACT: Jon Hopkins, NRR
301-415-3027

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OFFICIAL AGENCY RECORD

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UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*, SECTION 2.206

Date: October 17, 2006

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Status of Open Petitions

<u>Facility</u>	<u>Petitioner/EDO No.</u>	<u>Page</u>
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Report on Status of Public Petitions Under 10 CFR 2.206

Facilities: All operating and decommissioned power reactors and all operating and decommissioned research and test reactors

Petitioners: David Lochbaum and others

Date of Petition: January 25, 2006, as supplemented February 2, 2006

Director's Decision to be Issued by: NRR

EDO Number: G20060099

Proposed DD Issuance: June 28, 2006

Final DD Issuance: **October 27, 2006**

Last Contact with Petitioner: **September 13, 2006**

Petition Manager: Jon Hopkins

Case Attorney: Giovonna Longo

Issues/Actions requested:

The petitioner is requesting that the NRC issue a Demand for Information (DFI) requiring licensees to submit information related to monitoring of radioactively contaminated water and leakage detection systems.

Background:

The petitioners provided several examples of the release from various nuclear facilities of water containing radioactive materials. The petitioners contend that the multiple examples raise the possibility of similar unmonitored releases at other nuclear facilities.

The staff determined that the petition meets the criteria for review under 10 CFR 2.206. By letter dated February 2, 2006, the petitioner supplemented his petition to add three new petitioners. By letter dated March 1, 2006, the staff informed the petitioner that the petition had been accepted for review under 10 CFR 2.206.

The staff met with the petitioner on April 5, 2006. The meeting handouts and transcript are available on the NRC public webpage (www.nrc.gov/reactors/operating/ops-experience/tritium/public-meetings.html).

By letter dated April 17, 2006, Connecticut Yankee Atomic Power Company submitted comments on the petition, specifically providing information on activities at the Haddam Neck Plant.

By letter dated April 26, 2006, the petitioner submitted a letter which discusses the merits of the petition versus the NRC undertaking rulemaking to address the issue of groundwater contamination.

The NRC held a public meeting with the Nuclear Energy Institute on May 9, 2006. The industry participants announced and described an initiative that would apply to all operating and decommissioning power reactors. The initiative proposes to address the

issue of unmonitored releases of radioactive liquid effluents by having each licensee perform assessments, monitoring, and additional reporting to the NRC and local authorities. Many of the petitioners participated in the meeting.

On June 28, 2006, the NRC issued a proposed Director's Decision to the petitioners for comment. The proposed Director's Decision states that, because the industry initiative will provide the petitioners with the requested information, the portion of the Petition related to power reactors is considered granted in part, even though the NRC will not use a DFI as the mechanism to obtain the information. The NRC proposes to deny the portion of the Petition related to research and test reactors (RTR) because existing regulatory programs ensure that there is minimal risk of a significant release of contaminated liquid effluents and the NRC does not need additional information from the RTR licensees. The NRC staff requested that comments be submitted by July 28, 2006.

Comments on the proposed Decision were submitted by letter dated July 20, 2006, from David Lochbaum on behalf of over 24 organizations and individuals.

Current Status:

The staff has reviewed the comments and is preparing responses for the final Director's Decision. The issuance date for the final Director's Decision has been extended to October 2006 to allow for additional evaluation. The petitioner was informed of this change in schedule.

Facility:	Palisades Nuclear Power Plant
Petitioners:	Terry Lodge, Counsel for Petitioners
Date of Petition:	April 4, 2006
Director's Decision to be Issued by:	NMSS
EDO Number:	G20060369
Proposed DD Issuance:	November 30, 2006
Final DD Issuance:	TBD
Last Contact with Petitioner:	August 25, 2006
Petition Manager:	Randy Hall
Case Attorney:	Giovonna Longo

Issues/Actions requested:

That the NRC condemn and force a halt to the use of the two concrete pads holding dry casks storing used nuclear fuel at the Palisades Nuclear Power Plant. The petitioners state that the pads, on which radioactive waste are stored, do not conform with longstanding NRC requirements for earthquake stability standards because they were built on compacted sand and other subsurface materials, dozens of feet above bedrock. In particular, the petitioners claim that the pads are in violation of requirements in 10 CFR 72.212(b)(2)(i)(B).

Background:

The staff held a teleconference with the petitioners on April 26, 2006. The petitioners informed the staff that they would submit a supplement to the petition. The staff delayed making a decision on whether the petition met the criteria of 10 CFR 2.206 pending receipt of the supplement.

On May 4, 2006, the staff sent a letter to the petitioner, acknowledging receipt of the petition and providing a transcript of the teleconference. As of June 30, 2006, the petitioner had not provided a supplement to the petition.

On June 9, 2006, the staff sent a status letter to the petitioner, indicating that the staff will continue to process the petition in accordance with the 2.206 process.

On June 27, 2006, the staff sent a letter to the petitioner stating that the request to condemn and stop the use of the two ISFSI concrete pads does not require immediate action. The letter also stated that the petition was accepted for review under the 2.206 process in part, specifically with respect to slope stability of the concrete pad constructed in 2003. Those portions of the petition concerning the older concrete pad constructed in 1992 and soil liquefaction related to the newer pad were not accepted for review because those issues have already been the subject of NRC staff review and have been resolved.

On August 25, 2006, the staff attempted to reach the petitioner by phone and sent an email to provide a current status.

Current Status:

This issue was originally identified as an unresolved item in a previous NRC inspection report and was forwarded to the Spent Fuel Projects Office (SFPO) staff by Region III in a Technical Assistance Request (TAR) dated March 10, 2006. On August 29, 2006, SFPO sent a memorandum back to Region III identifying its remaining questions on the licensee's analysis, which Region III forwarded to the Palisades licensee. The licensee has indicated to the staff that it is revising its slope stability analysis for the new pad to address the NRC questions and that the revised analysis will be available for NRC review by October 23, 2006. The NRC staff will need several weeks after receipt of the licensee's revised analysis to complete its review of the issue and prepare the Proposed Director's Decision (DD); therefore, the dates for the Proposed DD will be extended by approximately one month to November 30, 2006.

Facility:	South Texas
Petitioners:	Service Employees International Union
Date of Petition:	May 16, 2006, as supplemented June 26, 2006
Director's Decision to be Issued by:	NRR
EDO Number:	G20060525
Proposed DD Issuance:	November 24, 2006
Final DD Issuance:	TBD
Last Contact with Petitioner:	August 7, 2006
Petition Manager:	Mohan Thadani
Case Attorney:	Giovonna Longo

Issues/Actions requested:

That the NRC issue a Demand for Information that would require STPNOC to provide the NRC with copies of:

- (1) any assessments of the safety conscious work environment at STP conducted since January 1, 2004, and
- (2) summaries of any associated action plans and the results of efforts to remediate problems revealed by these surveys and surveys in 2001 and 2003.

Background:

The NRC staff met with the petitioner on June 27, 2006. The petitioner discussed his concerns and requested actions, and provided a supplement to his petition.

The PRB determined that the petition meets the criteria for review under 10 CFR 2.206. An acknowledgment letter was issued on July 28, 2006.

The petition manager spoke with the petitioner on August 7, 2006, for the purpose of post-Petition Review Board (PRB) feedback, and offered another opportunity to meet with the PRB. The petitioner has not responded to the offer.

Current Status:

The staff is reviewing the petition and supplement, and plans to issue a proposed Decision by November 24, 2006.

Status of Potential Petitions Under Consideration

Facility: James A. FitzPatrick Nuclear Power Plant
Petitioner: Citizens Awareness Network
Date of Petition: September 13, 2006
EDO Number: G20060789
PRB meeting: TBD

Issues/Actions requested:

That the NRC suspend the operating license for FitzPatrick and suspend the license renewal application until an investigation is completed into the potential chilled work atmosphere due to the licensee's firing of an employee for reporting safety concerns.

Current Status:

The petitioner was contacted by the petition manager on September 22, 2006, to determine if they desire to meet with the Petition Review Board (PRB). The petitioner will address the PRB the week of October 9, 2006.

Facility: Shearon Harris
Petitioner: John Runkle representing WARN, UCS, et al.
Date of Petition: September 20, 2006
EDO Number: G20060793
PRB meeting: TBD

Issues/Actions requested:

That the NRC suspend the operating license for Shearon Harris until all fire safety violations affecting safe shutdown functions are brought into compliance.

Current Status:

The staff is reviewing the petition and will contact the petitioners to determine if they would like to address the PRB.

Facilities: All licensees that possess or use pyrophoric uranium munitions
Petitioners: James Salsman
Date of Petition: July 12, 2006
EDO Number: G20060666

Issues/Actions requested:

That the NRC modify all licensees that allow the possession, transport, storage, or use of pyrophoric uranium munitions to require the licensee to:

- (1) quantify the dates, times, locations, quantities, and types of pyrophoric uranium munitions use, along with an estimation of the kinds of targets involved;
- (2) determine the amount of uranyl oxide gas produced in pyrophoric uranium munitions combustion in air under typical and observed use conditions;
- (3) determine the extent of both reproductive and developmental toxicity from typical uranium combustion product inhalation in at least five diverse species of mammals; and
- (4) publish their determinations and provide for the independent verification of all such studies.

Background:

The petitioner submitted a previous petition on this subject on April 3, 2005, which is incorporated in its entirety in the current petition. The staff responded to the April 2005 petition by a Director's Decision dated September 23, 2005. The petitioner stated that additional information has come to light since the last petition.

The Petition Review Board held teleconferences with the petitioner on August 7 and 10, 2006. The petitioner supplemented his petition with additional information via e-mail on August 7, 9, 11, 15, and 17, 2006.

Current Status:

By letter dated September 26, 2006, the staff informed the petitioner that his requests do not meet the criteria for review under 10 CFR 2.206 for the following reasons:

- the petitioner has not specified facts that constitute a basis for the requests or which are sufficient to warrant further inquiry;
- the concerns are currently being reviewed in an NRC petition for rulemaking;
- the requests have been subject to NRC staff review and evaluation for which a resolution has been achieved; or
- the requests are based on claimed deficiencies in existing NRC rules.

AGE STATISTICS FOR AGENCY 2.206 PETITIONS

Assigned Action Office	FACILITY/ Petitioner	Incoming petition	PRB meeting ¹	Acknowledgment letter/days from incoming ²	Proposed DD issuance Date/age ³	Date for final DD/age ⁴	Comments if not meeting the Agency's Completion Goals
NRR	All operating and decommissioned power reactors and test and research reactors/ David Lochbaum and others	01/25/06	04/05/06	03/01/06 35	06/28/06 119	09/11/06 10/27/06	The issuance date for the final Director's Decision has been extended to October 2006 to allow for additional evaluation of the comments received.
NMSS	Palisades	04/04/06	04/26/06	06/27/06 84	10/27/06 11/30/06	TBD	The staff delayed issuing the acknowledgement letter pending receipt of a supplement to the petition. The staff is waiting for a revised analysis which will not be provided by the licensee until 10/23/06. The NRC staff will need several weeks after receipt of the licensee's revised analysis to complete its review of the issue and prepare the Proposed Director's Decision
NRR	South Texas	05/16/06	06/27/06	07/28/06 73	11/24/06	TBD	The staff delayed issuing the acknowledgement letter due to review of a supplement to the petition.

- 5) Goal is to hold a PRB meeting, which the petitioner is invited to participate in, within 2 weeks of receipt of petition.
- 2) Goal is to issue acknowledgment letter within 35 days of the date of incoming petition.
- 3) Goal is to issue proposed DD within 120 days of the acknowledgment letter.
- 4) Goal is to issue final DD within 45 days of the end of the comment period.