

June 6, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Bruce A. Boger, Associate Director */RA/*
for Operating Reactor Oversight and Licensing
Office of Nuclear Reactor Regulation

SUBJECT: MAY 2007 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*
(10 CFR) SECTION 2.206

In accordance with SECY-93-355, "Review of Regulations and Practice Governing Citizen Petitions Under Title 10 of the *Code of Federal Regulations*, Section 2.206," the enclosed report gives the status of petitions submitted under 10 CFR 2.206. As of May 31, 2007, there was one open petition that was accepted for review under the 2.206 process in the Office of Nuclear Reactor Regulation. Information that has changed since the last monthly report is highlighted.

Enclosure 1 provides a detailed status of the open petitions as of May 31, 2007.

Enclosure 2 provides the status of incoming letters that the U.S. Nuclear Regulatory Commission (NRC) 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 May 31, 2007.

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

Enclosures: As stated

CONTACT: Tanya M. Mensah, NRR/DPR
301-415-3610

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ADAMS Accession Number: ML071510617

NRR-106

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NAME	TMensah	CHawes for DBaxley	SRosenberg	HNieh	BBoger
DATE	6 / 01 / 07	6 / 04 / 07	6 / 05 / 07	6 / 06 / 07	6 / 06 / 07

OFFICIAL AGENCY RECORD

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

Date: June 6, 2007

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Status of Open Petitions

<u>Facility</u>	<u>Petitioner/EDO No.</u>	<u>Page</u>
Shearon Harris	John Runkle representing Waste Awareness and Reduction Network (WARN), Union of Concerned Scientists (UCS), et al. G20060793.....	1

Report on Status of Public Petitions Under 10 CFR 2.206

Facility:	Shearon Harris
Petitioners:	John Runkle representing WARN, UCS, et al.
Date of Petition:	September 20, 2006
Director's Decision to be Issued by:	NRR
EDO Number:	G20060793
Proposed DD Issuance:	April 2, 2007
Final DD Issuance:	June 15, 2007
Last Contact with Petitioner:	May 25, 2007
Petition Manager:	Lisa Regner
Case Attorney:	Giovonna Longo

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.

Background:

On October 23, 2006, the NRC staff held a public meeting for the petitioners to address the Petition Review Board (PRB). Due to technical difficulties with the teleconferencing system, the meeting was cancelled. The NRC staff held a public meeting on November 13, 2006, for the petitioners to address the PRB. The PRB determined that the petition met the criteria for review under 10 CFR 2.206. An acknowledgment letter was issued on December 4, 2006.

During the review of this petition, several resolutions were submitted by external stakeholders in support of the petition. The resolutions were submitted to the NRC in letters dated October 11, 2006 (G20060852), October 12, 2006 (G20060858) and October 16, 2006 (G20060861). The resolutions were submitted by the townships of Chapel Hill and Carrboro, and the Orange County Board of Commissioners respectively. Regarding the resolutions concerning fire protection issues, the NRC reached agreements with the respective townships and the Orange County Board of Commissioners to include them on distribution for related NRC correspondence with the petitioners concerning their requests. This agreement is documented in individual letters dated November 17, 2006, from the NRC staff to the townships of Chapel Hill and Carrboro. The NRC documented its response to the Orange County Board of Commissioners in letters dated November 27, 2006, and December 27, 2006.

In addition, in its letters dated October 16, 2006, and November 27, 2006, the Orange County Board of Commissioners submitted a resolution concerning emergency preparedness. In its response dated November 27, 2006, and December 27, 2006, the NRC staff determined that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency associated with the Shearon Harris Nuclear Plant. The NRC staff recommended that the Orange County Board of Commissioners work through the appropriate State and local agencies to develop proposed changes to the existing plans.

The NRC staff has completed its review and is proposing to deny the portions of the petition related to the petitioner's request for enforcement action, the request to conduct a public meeting, and the request to deny the licensee's application for license renewal at Shearon Harris. On April 2, 2007, the NRC staff issued the Proposed Director's Decision to the petitioner and to the licensee for comment. The NRC staff asked for comments to be submitted within 30 days of the proposed Director's Decision. On May 1, 2007, the petitioner and the licensee submitted comments on the Proposed Director's Decision to the NRC staff. The 30-day comment period ended on May 3, 2007.

Current Status:

The NRC staff is currently reviewing the petitioner's comments and is on schedule to issue the Final Director's Decision by June 15, 2007.

On May 25, 2007, the petition manager contacted the petitioners by email to notify them of an NRC public meeting held from May 30, 2007 - June 1, 2007. The purpose of the public meeting was to discuss topics associated with Progress and Duke Energy's Pilot Program to transition to the risk-informed, performance-based fire protection regulation in 10 CFR 50.48(c), the National Fire Protection Association (NFPA) 805 Rule.

Status of Potential Petitions Under Consideration

Facility: N/A
Petitioner: James Salsman
Date of Petition: December 3, 2006, and email supplement dated December 3, 2006
EDO Number: G20070006
PRB meeting: March 13, 2007 (teleconference with petitioner)
April 4, 2007 (closed meeting)
April 18, 2007 (teleconference with petitioner)
April 18, 2007 (closed meeting)

Issues/Actions requested:

The petitioner requests that all uranium munition licenses be explicitly modified to require:

- A good faith effort to quantify dates, times, locations, quantities, and types of pyrophoric uranium munition use, with an estimation of the kinds of targets involved.
- The licensees to determine the amount of uranyl oxide gas produced in pyrophoric uranium munitions combustion in air under typical and observed conditions.
- The licensees to determine the extent of both reproductive and developmental toxicity from typical uranium combustion product inhalation in at least five diverse species of mammals using chromosomal aberration analysis of lymphocytes and gonocytes.
- The licensees to publish their estimates and determinations from the license modifications specified in the three actions above, provide independent verification of the studies via anonymous bidding on contracts for replication and auditing of data, and publication of initial and validating studies in peer-reviewed medical and scientific journals.

Current Status:

The NRC staff made initial contact with the petitioner on January 18, 2007, to discuss the 2.206 petition process. The petitioner desired to address the PRB by teleconference. On March 13, 2007, the PRB held a teleconference with the petitioner. On April 4, 2007, the PRB held a closed meeting to formulate preliminary recommendations in response to the petitioner's request. The petitioner was informed of the PRB recommendations on April 12, 2007. On April 18, 2007, another teleconference was held with the petitioner, for the petitioner to comment on the PRB recommendations. **After considering the December 3, 2006, petition request, the information provided in several emails, and information provided in two teleconferences, the PRB determined that the December 3, 2006, request did not meet the criteria for review under 10 CFR 2.206, because the matters raised in the request have already been the subject of NRC review and evaluation for which a resolution has been achieved. This determination was conveyed to the petitioner via letter dated May 4, 2007 (ADAMS Accession No. ML071170288).**

ENCLOSURE 2

Facility: Indian Point, Units 2 and 3
Petitioner: Tom Gurdziel
Date of Petition: April 14, 2007
EDO Number: G20070250
PRB meeting: TBD

Issues/Actions requested:

The petitioner requests that:

- Effective noon of April 16, 2007, the NRC should set the maximum power of each licensed reactor of each Entergy/Indian Point reactor to zero until Entergy can demonstrate that the “fully tested, operational, new siren system is working.”
- The NRC take action to enforce its Confirmatory Order to Indian Point to install backup power to the Indian Point siren system by April 13, 2007.

Current Status:

On April 14, 2007, the petitioner submitted an email to the NRC requesting the actions listed above under “Issues/Actions requested.” **The PRB considered the petitioner’s request and made a final determination that the petition not be accepted for review pursuant to 10 CFR 2.206.**

The petitioner’s request for the NRC to take action to support its Confirmatory Order program because the April 15, 2007, deadline was not met was rejected for review on the basis that the request was evaluated by the NRC staff and was resolved by the NRC’s enforcement action (EA 07-092) of April 23, 2007.

The request to shut down Indian Point Units 2 and 3 was not accepted for review under the 2.206 process because the petitioner did not provide sufficient facts to constitute a basis for the requested action. This determination was conveyed to the petitioner via letter dated May 10, 2007 (ADAMS Accession No. ML071290044).

Facility: Indian Point, Units 2 and 3
Petitioner: Mark Leyse
Date of Petition: April 25, 2007
EDO Number: G20070273
PRB meeting: May 24, 2007 (Teleconference)

Issues/Actions requested:

The petitioner requests that the NRC:

- Revoke the operating license of Indian Point (IP), Units 2 and 3.
- Order the licensee of IP, Units 2 and 3, to immediately suspend operation of IP,

- Units 2 and 3.
- Temporarily shutdown IP, Units 2 and 3. In the event of Option 3, the petitioner requests that the NRC order the licensee to correct the current deficiencies of the emergency core cooling system (ECCS) design basis and reconfigure the power production levels of both plants, making IP, Units 2 and 3, compliant with 10 CFR 50.46(b).
- In the event of a license renewal process, conduct reviews for the license renewal of IP, Units 2 and 3, that encompass conservative ECCS evaluation calculations, modeling scenarios where one-cycle fuel would have been heavily crudded and/or oxidized fuel rods would have crud-induced corrosion failures.

Current Status:

On April 25, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. **On May 24, 2007, the petitioner addressed the PRB by teleconference. A transcript of the teleconference will be made publically available in ADAMS to supplement the petition.** The NRC staff is reviewing the petition, **and the transcript from the teleconference**, to determine if it meets the criteria for review under 10 CFR 2.206.

Facility:	Davis-Besse
Petitioner:	Union of Concerned Scientists (David A. Lochbaum)
Date of Petition:	April 30, 2007 and supplement dated May 10, 2007
EDO Number:	G20070297
PRB meeting:	TBD (with petitioner)

Issues/Actions requested:

FirstEnergy Nuclear Operating Company (FENOC), the licensee for the Davis-Besse Nuclear Power Plant (Davis-Besse), recently submitted a report to the NRC about the hole in the reactor vessel head caused by leakage from cracked control rod drive mechanism (CRDM) nozzles. Consultants paid by FENOC prepared this report located under Agencywide Documents Access and Management System Accession No. ML070860211. The petitioner requests that the NRC:

1. Immediately Order the Davis-Besse reactor to shut down and remain shut down until the NRC completes its independent review of the recently submitted report.
2. If the NRC's independent review determines that the small leak and fast corrosion rate scenario described in the FENOC-submitted report is valid, immediately Order all pressurized water reactors in the United States to be shut down and remain shut down until the NRC approved either:
 - A. An inspection scope and frequency based on the new scenario that provides protection against the Davis-Besse head damage or,
 - B. An installed leak detection capability that would alert control room operators to small leakage from one or more CRDM nozzles so that repairs could occur prior to damage progressing to Davis-Besse depths.
3. If the NRC's independent review determines that FENOC has submitted yet

another inaccurate report to the NRC, revoke the operating license for Davis-Besse.

Current Status:

The PRB considered the petitioner's request for immediate action (Item #1). On May 3, 2007, the petition manager informed the petitioner, by telephone, that the PRB had denied the request for immediate action on the basis that the NRC staff had already performed an assessment of the Exponent Report and that no immediate safety concern exists at Davis-Besse (ADAMS Accession No. ML071240254). In a letter dated May 18, 2007, the NRC conveyed this determination to the petitioner (ADAMS Accession No. ML071300245). The PRB also conveyed in the May 18, 2007, letter that it had not made initial determinations concerning Items #2 and #3 of the petition request.

On May 29, 2007, the petitioner was informed by telephone of the PRB's initial recommendations regarding Items #2 and #3 of the petition request. The petitioner requested a public meeting to address the PRB. The public meeting will be noticed on the NRC public website as soon as an agreed-upon date with the petitioner is determined.

Facility:	San Onofre Nuclear Generating Station, Units 2 and 3
Petitioner:	Name Not Provided (see current status below for explanation)
Date of Petition:	April 24, 2007
EDO Number:	G20070362
PRB meeting:	N/A

Issues/Actions requested:

The petitioner requests that:

1. SONGS Unit 2 should be shutdown immediately and remain shutdown until it meets the MRP-139 guidance.
2. SONGS Unit 3 should be shutdown immediately based on "unexpected defects" being identified within the initial weld overlay on the pressurizer surge line.

Current Status:

On April 24, 2007, a member of the public submitted a letter to NRC Office of Investigations, which was forwarded to the Senior Allegations Coordinator in the Office of Enforcement. The individual's name is not stated in this report, since they submitted their letter as an allegation to the NRC. Since the letter was specific to the San Onofre Nuclear Generating Station (SONGS), it was forwarded to the Office of Nuclear Reactor Regulation Allegations Coordinator for consideration as an allegation. The Allegations Coordinator determined that the concerns in the letter did not meet the criteria for review under the NRC's allegation process. However, because the letter requested enforcement action, it was forwarded to the 2.206 PRB for consideration.

In accordance with Management Directive 8.11, the petition manager contacted the petitioner by phone and by email to determine if the petitioner agreed with the NRC's consideration of the letter under the 2.206 process. The petitioner did not agree to the treatment of their concerns under the 2.206 process. Therefore, in accordance with Management Directive 8.11, the PRB determined that the letter did not meet the criteria as a 2.206. The PRB also decided that the NRC's response to the petitioner should be handled as general correspondence since it did not meet the criteria to be treated as an allegation.

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	Shearon Harris	09/20/06	11/13/06	12/04/06 75	04/02/07 119	6/15/07	

- 1) 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.