

September 12, 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: AUGUST 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 August 31, 2007, there were no open petitions 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 August 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 August 31, 2007.

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 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: ML072430447**

NRR-106

OFFICE	PM:PSPB	PM:PSPB	LA:PSPB	BC:PSPB	DD:DPR	ADRO
NAME	HCruz	TMensah	DBaxley	SRosenberg	HNieh	BBoger
DATE	8/31/07	9/7 /07	9/5/07	9/ 7 /07	9/11 /07	9/12 /07

OFFICIAL AGENCY RECORD

DISTRIBUTION FOR AUGUST 2007 REPORT ON THE STATUS OF PUBLIC PETITIONS  
UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*, SECTION 2.206

Date: September 12, 2007

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**Status of Open Petitions**

Facility

Petitioner/EDO No.

Page

No Open Petitions

## Status of Potential Petitions Under Consideration

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Facility: Indian Point, Units 2 and 3  
Petitioner: Mark Leyse  
Date of Petition: April 25, 2007  
EDO Number: G20070273 & G20070508  
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 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML071500238) was made publically available to supplement the petition. The PRB denied the petitioner's request for immediate action because the petitioner did not identify an immediate safety concern. In addition, the PRB determined that the petition did not meet the criteria for acceptance under 10 CFR 2.206 because the petitioner did not provide facts sufficient to constitute a basis for the requested action. Specifically, the petitioner did not identify any facts to indicate that IP2 or IP3 is in violation of any NRC requirement, or that operation of IP2 or IP3 presents a safety concern. In a letter dated May 31, 2007, the PRB documented its decision to the petitioner (ADAMS Accession No. ML071500238). In a letter dated July 17, 2007, the petitioner requested that the Executive Director for Operations overrule the PRB's decision not to accept the petition for review under the 2.206 process. **In a letter dated August 21, 2007, the NRC Executive Director for Operations concurred with the PRB's decisions and documented this decision to the petitioner (ADAMS Accession No. ML072140819). The NRC previously reviewed the emergency core cooling system evaluation calculations for IP2 and IP3 in accordance with NRC review criteria and found them acceptable.**

ENCLOSURE 2

Facility: Indian Point, Units 2 and 3  
Petitioner: Friends United for Sustainable Energy (FUSE - Susan Shapiro)  
Date of Petition: June 25, 2007  
EDO Number: G20070540  
PRB meeting: TBD

Issues/Actions requested:

The petitioners state that current NRC regulations are prejudiced and biased, usurp Stakeholder rights and presume that license renewal is a foregone conclusion, so long as the licensee spends enough money, and follows guidelines essentially drafted by the powerful nuclear industry lobby, the Nuclear Energy Institute ("NEI").

1. The petitioners request that the NRC issue an order enjoining the NRC from considering any new license applications until the NRC regulations are revised to protect the Constitutional First Amendment Rights, as well as the Equal Protection and Due Process Rights of Stakeholders.
2. Based upon the safety and security concerns identified on pages 4-14 of the petition (allegations), the petitioner requests that all licenses for IP be suspended until the site is in full compliance with all local, state and federal laws, statutes, rules and regulations.
3. Request for rulemaking (Part 54).

Current Status:

On June 25, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. On August 15, 2007, the Petition Manager contacted the petitioner to acknowledge receipt of the 2.206 petition. The petitioner requested that the allegations contained within the June 25, 2007, letter be handled in accordance with the 2.206 process. The PRB met internally on August 20, 2007, and August 27, 2007, to discuss the petitioner's requests for immediate action (Items #1 and #2). On September 5, 2007, the petition manager informed the petitioner of the PRB's decision to deny the requests for immediate action. A teleconference was scheduled for the petitioner to address the PRB on September 6, 2007. On September 5, 2007, the petitioner requested that the PRB delay the teleconference until October 2007, so that FUSE could focus its resources on responding to the Opportunity for Hearing for the Indian Point License Renewal. The petition manager is in the process of coordinating a new teleconference date.

Facility: Vermont Yankee  
Petitioner: New England Coalition (NEC), Raymond Shadis  
Date of Petition: August 27, 2007  
EDO Number: G20070597  
PRB meeting: Wednesday, September 12, 2007 (teleconference)

Issues/Actions requested:

The petitioner asks that the NRC act immediately to restore reasonable assurance of adequate protection of public health and safety that is now degraded by the failure of the licensee and its employees to report adverse conditions leading to a reduction in plant safety margins.

The petitioner requests:

1. NRC completion of a Diagnostic Evaluation Team examination or Independent Safety Assessment of Vermont Yankee to determine the extent of condition of non-conformances, reportable items, hazards to safety, and the root causes thereof.
2. NRC completion of a safety culture assessment to determine why worker safety concerns were not previously reported and the why assessments of safety culture under the Reactor Oversight Process failed to capture the fact or reasons that safety concerns have gone unreported.
3. Derate Vermont Yankee to 50% of licensed thermal power with a mandatory hold at 50% until a thorough and detailed structural and performance analysis of the cooling towers, including the alternate cooling system, has been completed by the licensee; reviewed and approved by NRC; and until the above steps have been completed.
4. NRC investigation and determination of whether or not similar nonconforming conditions and causes exist at other Entergy-run nuclear power plants.

If prompt action can not be taken through the 10 CFR 2.206 process, then NEC recommends that the NRC exercise its statutory discretion to halt power operation until it can be determined to what extent Vermont Yankee is being operated in an unanalyzed condition and until it can be determined that reduction in margins of public health and safety have been restored and do so prior to screening NEC's letter for acceptance into the 2.206 process.

Current Status:

On August 27, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The NRC staff is reviewing the petition to determine if it meets the criteria for review under 10 CFR 2.206. The petitioner has requested an opportunity to address the PRB during a teleconference on Wednesday, September 12, 2007.

**AGE STATISTICS FOR AGENCY 2.206 PETITIONS**

Assigned Action Office	FACILITY/ Petitioner	Incoming petition	PRB meeting <sup>1</sup>	Acknowledgment letter/days from incoming <sup>2</sup>	Proposed DD issuance Date/age <sup>3</sup>	Date for final DD/age <sup>4</sup>	Comments if not meeting the Agency's Completion Goals
NRR	No Open Petitions						

- 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.