

December 20, 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: NOVEMBER 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 November 30, 2007, there was one open petition accepted for review under the 2.206 process in the Office of Nuclear Reactor Regulation (NRR). Information that has changed since the last monthly report is highlighted.

Enclosure 1 provides a detailed status of the open petitions as of November 30, 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 November 30, 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: Holly Cruz, NRR/DPR
301-415-1053

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ADAMS Accession Number: ML073510485

NRR-106

OFFICE	PM:PSPB	BC:PSPB	DD:DPR	ADRO
NAME	HCruz	SRosenberg	HNieh	BBoger
DATE	12/17/07	12/17/07	12/19/07	12/20/07

OFFICIAL AGENCY RECORD

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

Date: December 20, 2007

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Status of Open Petitions

<u>Facility</u>	<u>Petitioner/EDO No.</u>	<u>Page</u>
Vermont Yankee	Raymond Shadis representing New England Coalition (NEC) G20070597	1-2

Report on Status of Public Petitions Under 10 CFR 2.206

Facility:	Vermont Yankee
Petitioners:	Raymond Shadis representing NEC
Date of Petition:	August 27, 2007
Director's Decision to be Issued by:	NRR
EDO Number:	G20070597
Proposed DD Issuance:	March 5, 2008
Final DD Issuance:	TBD
Last Contact with Petitioner:	October 3, 2007 (teleconference)
Petition Manager:	James Kim
Case Attorney:	Giovonna Longo

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, NEC recommends 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.

Background:

On August 27, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. On September 6, 2007, the petitioner was notified by telephone call that the requested immediate action to derate or shutdown the Vermont Yankee Power Plant was denied since the petition did not identify safety hazards sufficient to either derate or shutdown the plant. On September 12, 2007, the NRC staff held a teleconference with the petitioner, providing the opportunity to address the Petition Review Board (PRB). The PRB made an initial recommendation that the petition met the criteria for review under 10 CFR 2.206, and notified the petitioner by telephone of its decision to accept the petition only with respect to the review of technical concerns with the cooling towers on September 26, 2007. The petitioner requested a second opportunity to address the PRB by teleconference. This teleconference was held on October 3, 2007. In an email dated October 3, 2007, the petitioner forwarded additional press articles to supplement the original petition request.

Current Status:

The PRB met on October 17, 2007, in an internal meeting to consider the additional information provided by the petitioner during the October 3, 2007, teleconference. In the meeting, it was determined that the information provided in the petition was credible and sufficient to warrant review under 10 CFR 2.206, with respect to the cooling tower collapse. The final PRB recommendation was provided in an acknowledgement letter to the petitioner on November 6, 2007 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML072920190). **The Proposed Director's Decision will be issued by March 5, 2008.**

Status of Potential Petitions Under Consideration

Facility: Indian Point, Units 2 and 3
Petitioners: Friends United for Sustainable Energy
(FUSE – Sherwood Martinelli)
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).

Background:

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. Due to multiple failed attempts to contact the petitioner by telephone, the petition manager contacted the petitioner by email on September 26, 2007, to inform the petitioner of the current status of the petition and to coordinate a date for a PRB meeting. The PRB met internally on October 30, 2007, to make an initial recommendation.

ENCLOSURE 2

Current Status:

The petition manager contacted the petitioner on November 2, 2007, to inform the petitioner of the PRB's initial recommendation to accept the petition with respect to the concerns regarding the Indian Point sirens and groundwater, but deny the request for immediate shutdown. The petitioner requested an opportunity to address the PRB, and the meeting has been scheduled for December 21, 2007. After this meeting, the PRB plans to issue an acknowledgement letter containing the PRB's final recommendation.

On November 7, 2007, the NRC received notice that Sherwood Martinelli would be replacing Susan Shapiro as the FUSE point of contact for this petition.

Facility:	Indian Point (IP); ADAMS
Petitioner:	Friends United for Sustainable Energy (FUSE-Sherwood Martinelli)
Date of Petition:	September 21, 2007
EDO Number:	G20070670
PRB meeting:	TBD

Issues/Actions requested:

The petitioner states document access on the Agencywide Documents Access and Management System (ADAMS) is not adequate, and further, historical documents have not been transferred, making the review of documents necessary for IP2 and IP3 license renewal impossible. The petitioner states that it is impossible to have an accurate picture of the General Design Criteria (GDC) for IP, which is critical to understanding the LRA (License Renewal Application). The petition also states that citizens cannot adequately review aging management programs proposed by the licensee (IP2 and 3) when Chapter 14 of the updated final safety analysis report (UFSAR), cannot be reviewed fully since the NRC has almost fully redacted under the name of national security.

1. The petitioner asks for an order from the NRC that would put every historical document into ADAMS, and those pertaining to IP, organized into a centralized folder. The file would be further broken down into three sub-folders, one for each reactor licensee, and a fourth for all documents that discuss one or more Entergy sites that include one or more of the IP reactors.
2. The petitioner requests the NRC rules relating to proprietary requests by licensees be weighed against the public's right to know. This includes making documents/information public, even if it would hurt the company's financial interests, and/or see them lose their edge in the industry, if the need to know of the public is more important.
3. The petitioner requests that every proprietary document pertaining to IP be reviewed under NRC rules and regulations, and where possible, released to the public via ADAMS. For those documents the NRC deems proprietary, the petitioner asks the NRC to require the licensee to place into the public domain via ADAMS the required detailed summary.

4. The petitioner requests the NRC order its staff and Entergy to provide to the public a full and un-redacted version of the UFSAR for both plants so that the public can fully understand the risks associated with IP, and adequately weigh the proposed aging management plans found in the licensee's LRA.
5. The petitioner requests a "stay of the clock" until this review is complete, and all proprietary document issues have been resolved. Further, the petitioner requests the petition be expedited through the decision making process to facilitate meeting the deadline for filing contentions of November 30, 2007.

Current Status:

By letter dated September 21, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. In a letter dated, October 24, 2007, the NRR staff notified the petitioner that the request does not meet the criteria for consideration under 10 CFR 2.206, because it does not contain a request for enforcement-related action. Instead, the request seeks changes in NRC's management of its document system, ADAMS, and constitutes a challenge to NRC rules regarding the treatment of proprietary information. The request to require the licensee to provide an un-redacted version of the Safety Analysis is not a request for enforcement related action, but instead constitutes a challenge to NRC requirements regarding treatment of sensitive information. Finally, the request for a stay on the license renewal application process is not a request for enforcement related action, but raises a licensing concern. Accordingly, the petitioner was informed that the request will be further reviewed by the NRR Division of Operating Reactor Licensing.

In a letter dated November 2, 2007, the petitioner disagreed with the PRB recommendation and requested that Chairman Klein overturn the PRB decision. A green ticket was assigned for the NRC staff to address the petitioner's disagreement. **In a letter dated December 5, 2007, the NRR Associate Director for Operating Reactor Oversight and Licensing concurred with the PRB's decisions and documented this decision to the petitioner (ADAMS Accession No. ML073240984).**

Facility:	Indian Point (IP), Units 2 and 3
Petitioner:	Friends United for Sustainable Energy (FUSE-Sherwood Martinelli)
Date of Petition:	September 21, 2007
EDO Number:	G20070671
PRB meeting:	TBD

Issues/Actions requested:

The petitioner states the NRC and the NEI have wrongfully concluded that the likelihood of a terrorist attack on a nuclear reactor site is insufficient to warrant consideration in the environmental impact statement (EIS) scoping process.

1. The petitioner requests the environmental costs of a terrorist attack be included in the EIS scoping process for the IP nuclear reactors. Specifically, the petitioner requests the EIS scoping process include the environmental cost studies for individual targeted terrorist attacks on individual locations/components at the

facility. In addition, the petitioner requests the environmental costs of a targeted terrorist attack on multiple locations/components of the facility be included.

Current Status:

By letter dated September 21, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. In a letter dated, October 24, 2007, the NRR staff notified the petitioner that the request does not meet the criteria for consideration under 10 CFR 2.206, because it does not contain a request for enforcement-related action, but instead seeks a change in NRC policy or regulations. The petitioner was informed that the request will be reviewed by the NRR Division of License Renewal.

In a letter dated November 2, 2007, the petitioner disagreed with the PRB recommendation and requested that Chairman Klein overturn the PRB decision. A green ticket was assigned for the NRC staff to address the petitioner's disagreement. **In a letter dated December 5, 2007, the NRR Associate Director for Operating Reactor Oversight and Licensing concurred with the PRB's decisions and documented this decision to the petitioner (ADAMS Accession No. ML073240984).**

Facility:	Indian Point, Units 2 and 3
Petitioners:	Friends United for Sustainable Energy (FUSE-Sherwood Martinelli)
Date of Petition:	September 28, 2007
EDO Number:	G20070700
PRB meeting:	TBD

Issues/Actions requested:

The petitioner states Entergy has not taken adequate action to ensure the IP2 and 3 emergency sirens are fully operational.

1. The petitioner requests that the NRC issue an order to place IP2 and 3 in cold shutdown until their emergency sirens are fully approved by the Federal Emergency Management Agency (FEMA) and the NRC, and the system is operating within 96 percent.
2. The petitioner requests the NRC fine Entergy \$130,000 per day from September 28, 2007, forward until they have complied with the NRC's order.

Current Status:

By letter dated September 28, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The PRB met internally on October 30, 2007, to determine if the petition met the criteria for review under 10 CFR 2.206. **The petition manager contacted the petitioner on November 1, 2007, to inform the petitioner of the PRB's initial recommendation to accept the petition with respect to the concerns regarding the Indian Point sirens, but deny the request for immediate shutdown. The petitioner requested an opportunity to address the PRB,**

and the meeting has been scheduled for December 21, 2007. After this meeting, the PRB plans to issue an acknowledgement letter containing the PRB's final recommendation.

Facility: Indian Point (IP)
Petitioner: Friends United for Sustainable Energy (FUSE-Sherwood Martinelli)
Date of Petition: September 28, 2007
EDO Number: G20070701
PRB meeting: TBD
Issues/Actions requested:

The petitioner states IP1 is in violation of its SAFESTOR status, citing the following concerns:

1. Various components of IP1 are being used to support the activities and operations of other NRC-licensees, specifically IP2 and 3.
2. IP1 has failed to repair leaking spent fuel pools (SFP) so that current spent fuel rods could be moved into a refurbished SFP, allowing the current SFP to be drained and restored to design basis.
3. IP1 is cross contaminating waste streams with a separate NRC licensee by using the IP2 SFP to transfer separately licensed materials into dry cask storage.
4. IP1 is allowing mixed wastes to be stored in the IP1 containment area, and in various non-specifically identified burial sites risking human health and the environment. The mixed waste burial sites are not fully identified and monitored, thus creating possible migration pathways for human ingestion.
5. Entergy is attempting to modify the license for IP1 to bring back into operation the IP1 crane to co-mingle licensee spent fuel waste streams by moving IP1 rods into the IP2 SFP. The IP2 SFP is to the point of bursting, and cannot provide adequate rack space for a full core emergency dump after the spring turn around unless they can begin moving fuel from the pool in large quantities this fall.

The petitioner requests the NRC remove IP1 from SAFESTOR, and move it into official full decommissioning status, with decommissioning to begin immediately.

Current Status:

By letter dated September 28, 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. In a letter dated, December 5, 2007, the NRC Office Director for the Federal and State Materials and Environmental Management Programs notified the petitioner of the PRB's conclusion that the submittal did not meet the criteria for consideration under 10 CFR 2.206 because it is not a request for enforcement-related action, but a licensing action (ADAMS Accession No. ML073120262). The current license provides for

Indian Point 1 decommissioning at the same time as Indian Point 2, and Indian Point 1 is authorized to store spent fuel pursuant to Technical Specifications.

Facility:	Yucca Mountain Project
Petitioner:	State of Nevada - Catherine Cortes Masto, Attorney General
Date of Petition:	October 16, 2007
EDO Number:	G20070731
PRB meeting:	TBD

Issues/Actions requested:

The petitioner states that it has recently found a number of Sandia National Laboratory (SNL) documents that show SNL has subordinated safety and scientific accuracy to meet the U.S. Department of Energy's (DOE's) deadline to file a license application for the Yucca Mountain Geologic Repository.

The petitioner requests that the U.S. Nuclear Regulatory Commission (NRC) inform DOE to take the following actions:

1. "suspend Sandia from any future work on the Yucca Mountain project" until an independent/external investigation is completed
2. arrange investigation of SNL's "safety-conscious environment" by an independent external organization
3. "confirmation of a new safety culture" at SNL.

Current Status:

On October 16, 2007, the petitioner filed the petition titled, "Petition for an Independent Investigation and Suspension of Sandia National Laboratories from Further Work on the Yucca Mountain Project," citing 10 CFR 2.206. On October 25, 2007, the PRB met internally to discuss the petition from the State of Nevada. **The PRB concluded that the petition from the State of Nevada does not meet the criteria for a 2.206 petition because the petition does not request the Commission to take an enforcement-related action against an NRC licensee, applicant, certificate holder, or their contractors. Moreover, the NRC has not received a license application from the Department of Energy for the Yucca Mountain Geologic Repository.**

On November 15, 2007, the petition manager called Ms. Marta Adams, Senior Deputy Attorney General, and informed her of the PRB's decision. In addition, the NRC staff sent a closure letter dated November 15, 2007, to the petitioner to formally document the PRB's decision.

The PRB agreed that the substantive concerns expressed by the State of Nevada are best addressed in the context of a future licensing proceeding, should NRC receive an application to construct a repository at Yucca Mountain. The PRB agreed that, in view of these conclusions, the petition should be handled as routine correspondence.

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	Vermont Yankee/ Raymond Shadis - NEC	08/27/07	09/12/07 10/03/07	11/06/07 71	03/05/08 120	TBD	Delayed due to scheduling PRB meetings with the petitioner, providing the opportunity for the petitioner to provide supplemental information.

- 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.