

May 20, 2002

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Brian W. Sheron, Associate Director */RA/*
for Project Licensing and Technical Analysis
Office of Nuclear Reactor Regulation

SUBJECT: APRIL 2002 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER 10 CFR 2.206

The attached report gives the status of 10 CFR 2.206 petitions as of April 30, 2002. Currently, there are six open petitions, which have been accepted for review under the 2.206 process: four in the Office of Nuclear Reactor Regulation, and two in the Office of Nuclear Material Safety and Safeguards.

Attachment 1 provides the detailed status of the open petitions. Attachment 2 shows the age statistics for the open 2.206 petitions as of April 30, 2002. Attachment 3 shows the statistics for all 2.206 petitions processed in the past 12 months.

This report and recently issued Director's Decisions are placed in the Agencywide Documents Access and Management System, making them readily accessible to the public.

Attachments: As stated

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Report on Status of Public Petitions Under 10 CFR 2.206
April 30, 2002
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Attachment 1

Report on Status of Public Petitions Under 10 CFR 2.206

Facilities:	<u>Salem Nuclear Generating Station, Unit Nos. 1 and 2</u> <u>Hope Creek Generating Station</u> <u>Oyster Creek Nuclear Generating Station</u>
Petitioner:	Norm Cohen, Unplug Salem Campaign
Date of Petition:	9/17/2001
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	9/19/2001
EDO Number:	G20010389
Scheduled Completion Date:	5/17/2002
Last Contact with Petitioners:	4/29/2002
Petition Manager:	R. Fretz
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioner requested that the U.S. Nuclear Regulatory Commission (NRC) order either the closure of, or an immediate security upgrade at, the Salem Nuclear Generating Station, Unit Nos. 1 and 2, Hope Creek Generating Station, and Oyster Creek Nuclear Generating Station. In addition, the petitioner requested that: (1) the plants' defenses be upgraded to withstand a jet crash similar to that which occurred at the World Trade Center (WTC) on September 11, 2001; (2) all the spent fuel pools be brought into the containment buildings until a new jet bomber-proofed containment is built for them; (3) the NRC triple the number of Operational Safeguards Response Evaluation (OSRE) security inspections; and (4) the NRC cancel proposals to allow nuclear power plants to conduct their own security inspections.

Background:

The events of September 11, 2001, were cited as the basis for the request, with the petitioner stating that the four New Jersey nuclear power plants are vulnerable to terrorist threats, including a suicide airplane attack similar to that experienced at the WTC.

Two closed Petition Review Board (PRB) meetings were conducted on November 19, 2001, and November 29, 2001, to consider the merits of the requested actions. The PRB concluded that the petition met the threshold for processing under 10 CFR 2.206, and that the details provided in the petitioner's request were found sufficient to warrant further inquiry (Part III of Management Directive (MD) 8.11). An acknowledgment letter and a single *Federal Register* notice common to this and two other similar petitions (see pages 4 and 6) were issued on December 20, 2001.

The petitioner was contacted on December 7, 2001, and was informed that the NRC had advised all NRC licensees, after the September 11, 2001, terrorist attack on the WTC, to go to the highest level of alert, which they promptly did. Since there were no credible threats, there was no need to order the plants to shut down. However, the petitioner's immediate action requests were, in effect, partially granted in that the NRC had taken actions in response to the September 11, 2001, event by issuing many safeguards and threat advisories to the industry. The petitioner was informed that the NRC will follow the 10 CFR 2.206 petition process as explained in MD 8.11 to the extent possible without compromising sensitive information.

The petitioner was contacted again on January 9, 2002, and informed of the progress on this petition and the scheduled completion date of April 30, 2002. Orders were sent to all licensees on February 25, 2002, to formalize the heightened security measures and to require certain additional enhancements. A PRB meeting was held on February 28, 2002, to determine the staff actions on this petition in light of the Orders. The PRB recommended that the petition managers issue separate Director's Decisions (DDs) for each of the security-related petitions discussed on pages 2, 4, and 6 rather than one combined DD.

The petitioner was contacted on March 7, 2002, and informed of the status of the staff's review. On March 18, 2002, the PRB met with representatives of the Reactor Safeguards, Radiation Safety, and Emergency Preparedness Branch of the Office of Nuclear Reactor Regulation (NRR), and the Office of the Executive Director for Operations to re-consider the policy of withholding security-related petitions from the public in light of new guidance on releasing documents. The PRB, with the agreement of NRR's Executive Team and representatives of the offices listed above, decided to make this petition, and the other security-related petitions, public.

Current Status:

The proposed DD is under review and in concurrence. The current target date for issuance of the proposed DD is May 17, 2002. The delay in issuing the proposed DD was caused by technical staff resource constraints due to staff assignments for of the new Office of Nuclear Security and Incident Response (NSIR), processing of the Interim Compensatory Measures Orders (and review of responses), and the need for a further review by the newly created NSIR office. The petitioner was informed of the status on April 29, 2002.

Facility:	<u>All Operating Nuclear Power Plants (103) in the U. S.</u>
Petitioner(s):	Michael D. Kohn, National Whistleblower Center
Date of Petition and Supplement:	10/24/2001 and 1/16/2002
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	10/26/2001
EDO Number:	G20010485
Scheduled Completion Date:	5/17/2002
Last Contact with Petitioners:	4/29/02
Petition Manager:	G. Shukla
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioner requested that the NRC take immediate short-term and long-term corrective actions to protect the public against the possibility of terrorists seizing control of a large commercial jetliner and crashing it into a nuclear power plant in the United States. The petitioner also requested that the NRC staff take certain specified compensatory measures to protect the public and the environment from the catastrophic impact of a terrorist attack on a nuclear power plant or a spent fuel pool.

Background:

As a basis for the above requests, the petitioner states that no commercial nuclear power plant located within the United States was designed to withstand the impact of a large commercial airliner. The petitioner cites the plants' inability to be protected against terrorist attacks, including a suicide airplane attack similar to the attack on the World Trade Center (WTC). The petitioner discusses NRC's failure to adequately assess risk of malevolent airborne attacks, failure to adequately assess the risk of terrorist attacks at spent fuel storage facilities, and failure to adequately protect nuclear power plants from terrorist attacks.

There are two other petitions with similar requests concerning the security of nuclear power plants in the U.S. subsequent to the terrorist attacks on the WTC on September 11, 2001. (See pages 2 and 6 for the current status of these petitions).

The petitioner was contacted on December 7 and 20, 2001, and informed of the staff's progress to date. The petitioner was informed that the NRC had advised all NRC licensees, after the September 11, 2001, terrorist attack on the WTC, to go to the highest level of alert, which they promptly did. Since there were no credible threats, there was no need to order the plants to shut down. However, the petitioner's immediate action requests were, in effect, partially granted in that the NRC had taken actions in response to the September 11, 2001, event by issuing many safeguards and threat advisories to the industry. Furthermore, Orders were sent to all licensees on February 25, 2002, to formalize the heightened security measures and to require certain additional enhancements. The petitioner was informed that the NRC will follow the 10 CFR 2.206 petition process as explained in Management Directive 8.11 to the extent possible without compromising sensitive information. An acknowledgment letter and a single *Federal Register* notice common to this and two other similar petitions (see pages 2 and 6) were issued on December 20, 2001. By letter dated January 16, 2002, Winston & Strawn

provided comments on the petition on behalf of several licensees, in support of the NRC acknowledgment letter to Michael D. Kohn dated December 20, 2001. These comments will be considered in preparing the Director's Decision (DD), which is scheduled for issuance on May 17, 2002.

A Petition Review Board (PRB) meeting was held on February 28, 2002, to determine the staff actions on this petition in light of the Orders. The PRB recommended that the petition managers issue separate DDs for each of the security-related petitions discussed on pages 2, 4, and 6 rather than one combined DD.

The petition manager contacted Michael Kohn on March 15, 2002, and informed him of the progress of his petition and issuance of Security Orders on February 25, 2002. On March 18, 2002, the PRB met with representatives of the Reactor Safeguards, Radiation Safety, and Emergency Preparedness Branch of the Office of Nuclear Reactor Regulation (NRR), and the Office of the Executive Director for Operations to re-consider the policy of withholding security-related petitions from the public in light of new guidance on releasing documents. The PRB, with the agreement of NRR's Executive Team and representatives of the offices listed above, decided to make this petition, and the other security-related petitions, public.

Current Status:

The proposed DD is under review and in concurrence. The current target date for issuance of the proposed DD is May 17, 2002. The delay in issuing the proposed DD was caused by technical staff resource constraints due to staff assignments for the new Office of Nuclear Security and Incident Response (NSIR), processing of the Interim Compensatory Measures Orders (and review of responses), and the need for a further review by the newly created NSIR office. The petitioner was informed of the status on April 29, 2002.

Facility:	<u>Indian Point Units 2 and 3</u>
Petitioner(s):	Alex Matthiessen/Karl Coplan/Pace Environmental Litigation Clinic, Inc., Riverkeeper, Inc., et al.
Date of Petition:	11/8/2001, plus several supplements
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	11/9/2001
EDO Numbers:	G20010508, G20010556, G20010567, G20020034, G20020051, G20020064, G20020073, G20020085, G20020092, G20020095, G20020096, G20020097, and G20020098
Scheduled Completion Date:	5/17/2002
Last Contact with Petitioners:	4/25/2002
Petition Manager:	P. Milano
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioners request that: (1) the NRC issue an order to the Indian Point 2 and 3 licensee for a temporary shutdown to conduct a full review of vulnerabilities, security measures, and evacuation plans; (2) the NRC require the licensee to provide sufficient information about security for NRC to determine their ability to meet realistically expected threats and contemplate making the measures permanent; (3) the NRC mandate specifically listed measures to set up and protect a permanent no-fly zone and a defensive system to protect the "entire facility"; and (4) a revision be made to the emergency planning to include terrorists risks and multiple attacks on the infrastructure used in an evacuation. Finally, the petitioner requested that the NRC shut down the Indian Point facility permanently if security cannot be sufficiently ensured, and order the immediate conversion from spent fuel storage pools to a dry cask system.

Background:

As a basis for the above requests, the petitioners state that no commercial nuclear power plant located within the United States was designed to withstand the impact of a large commercial airliner. The petitioners cite the plant's inability to be protected against terrorist attacks, including a suicide airplane attack similar to the attack on the World Trade Center (WTC).

On November 21, 2001, the Village of Hastings-on-Hudson, New York, submitted its Board of Trustees' resolution calling for action very similar to that of the above petitioner and citing the same bases. The Village Clerk was contacted on December 27, 2001, to explain the petition process and discuss the existing petition. The Village Clerk asked to have this resolution treated as a supplement to the existing petition. A response letter was sent to Hastings-on-Hudson on January 29, 2002.

On November 26, 2001, the Village of Croton-on-Hudson, New York, in accordance with its Board of Trustees Resolution, requested that they too join the Riverkeeper, Inc., et al. as a co-petitioner. The PRB acceded to the request and recommended that they be included and acknowledged along with the rest of the petitioners. A response letter was sent on December 20, 2001.

Mr. Matthiessen was contacted on December 20 and 27, 2001, and informed of the staff's progress to date. An acknowledgment letter and a single *Federal Register* notice common to

this and the two other similar petitions (see pages 2 and 4) were issued on December 20, 2001. The petitioners were informed that the NRC had advised all NRC licensees, after the September 11, 2001, terrorist attacks, to go to the highest level of alert, which they promptly did. Since there were no credible threats, there was no need to order the plants to shut down. However, the petitioner's immediate action requests were, in effect, partially granted in that the NRC had taken actions in response to the September 11, 2001, event by issuing many safeguards and threat advisories to the industry. Furthermore, Orders were sent to all licensees on February 25, 2002, to formalize the heightened security measures and to require certain additional enhancements. The petitioners were informed that the NRC will follow the 10 CFR 2.206 petition process as explained in Management Directive 8.11 to the extent possible without compromising sensitive information.

The NRC received letters from the Town of Stony Point, dated December 12, 2001, and the Bedford Central School District, dated December 13, 2001. Also included as part of this petition are letters received from Nyack Public Schools, the Peace and Community Action Committee, the Village of Dobbsferry, the Town of Newcastle, and the Hastings-on-Hudson school district in February 2002. These letters make identical requests to the Riverkeeper petition and the petitions from the Villages of Hastings and Croton-on-Hudson. The staff will treat these as co-petitioners, and their letters as supplements to the petition.

Mr. Matthiessen was contacted on January 7, 2002. He requested a meeting with the Petition Review Board (PRB). The PRB decided at its meeting on January 24, 2002, that such a meeting was unnecessary because the petitioners did not indicate that they had additional information to provide to the staff. A PRB meeting was held on February 28, 2002, to determine the staff actions on this petition in light of the Orders. The PRB recommended that the petition managers issue separate Director's Decisions (DDs) for each of the security-related petitions discussed on pages 2, 4, and 6 rather than one combined DD.

A letter was sent to Mr. Matthiessen on March 13, 2002, informing him of the staff's decisions related to his requests for a meeting and specific documents, which he made in the January 7, 2002, phone call.

On March 18, 2002, the PRB met with representatives of the Reactor Safeguards, Radiation Safety, and Emergency Preparedness Branch of the Office of Nuclear Reactor Regulation (NRR), and the Office of the Executive Director for Operations to re-consider the policy of withholding security-related petitions from the public in light of new guidance on releasing documents. The PRB, with the agreement of NRR's Executive Team and representatives of the offices listed above, decided to make this petition, and the other security-related petitions, public.

Current Status:

The proposed DD is under review and in concurrence. The current target date for issuance of the proposed DD is May 17, 2002. The delay in issuing the proposed DD was primarily caused by technical staff resource constraints due to staff assignments for the new Office of Nuclear Security and Incident Response (NSIR), processing of the Interim Compensatory Measures Orders (and review of responses), and the need for a further review by the newly created NSIR office. The petitioner was informed of the status on April 25, 2002.

Utility	<u>Carolina Power & Light (CP&L)/Progress Energy</u>
Petitioner:	Jim Warren of North Carolina Waste Awareness and Reduction Network (NC WARN)
Date of Petition and supplement:	November 5, 2001, and February 12, 2002
Director's Decision to Be Issued by:	NMSS
Date Referred to Review Organization:	12/11/2001
EDO Number:	G200100461
Scheduled Completion Date:	5/31/2002
Last Contact with Petitioner:	3/26/2002
Petition Manager:	David Pstrak
Case Attorney:	Jack Goldberg

Issues/Action Requested:

The petitioner requests that NRC require CP&L to halt rail shipments of spent nuclear fuel. The petitioner stated that the Department of Energy (DOE) suspended a shipment of fuel assemblies due to the threat of terrorist attacks on the shipment during transport. The petitioner believes the NRC should also require CP&L to suspend rail shipments of irradiated fuel indefinitely to ensure the safety of the citizens in North Carolina.

Background:

The petitioner states that DOE suspended a shipment of spent fuel assemblies following the terrorist attacks of September 11, 2001, because of the potential for a terrorist attack on the shipment. The petitioner requests that NRC require indefinite postponement of all spent fuel shipments within the CP&L system. The petitioner states that failure to do so would indicate a conflict between DOE and NRC positions on the safety of rail shipments of spent fuel.

The Petition Review Board (PRB) met on January 16, 2002, and agreed that the incoming petition meets the criteria to be considered under the 2.206 process. The PRB decided not to grant the part of the petition that requested immediate action to halt the rail shipments of spent fuel within the CP&L system. The PRB determined it was appropriate to send an acknowledgment letter to Mr. Warren, and it was issued on January 31, 2002.

The petitioner sent the NRC Chairman another letter dated February 12, 2002, in which he requested once again that NRC halt the shipments of spent fuel by CP&L to the Harris Plant. This letter is being treated as a supplement to the original petition. A Director's Decision (DD) is being developed and will be structured around the pending interim compensatory measures for transportation of spent fuel. The petitioner was informed that his letter of February 12, 2002, is currently in review and will be considered along with the previous letter (November 5, 2001) in the 2.206 process.

Current Status:

A Director's Decision (DD) is being developed and will be structured around the pending interim compensatory measures for transportation of spent fuel. It is the intent of the petition manager to meet the 5/31/02 deadline for issuing the proposed DD. However, the draft orders for spent fuel transportation are due to the Commission on 5/22/02. If there seems to be an advantage in waiting for the actual orders so that they can be more concretely addressed in the DD, then an extension of the issuance date of the DD may be needed.

Facility:	<u>All Operating Nuclear Power Plants (103) in the U. S.</u>
Petitioner(s):	David Lochbaum, Union of Concerned Scientists,
Date of Petition and supplements:	3/11/2002, 3/21/2002, and 3/22/2002
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	
EDO Number:	G20020142
Scheduled Completion Date:	TBD
Last Contact with Petitioners:	3/20/2002
Petition Manager:	D. Jaffe
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioner is requesting that the NRC order the licensees of all operating nuclear power plants to take measures that will reduce the risk from sabotage of irradiated fuel. Specifically, those measures are:

- (1) to impose a 72-hour limit for operation when the number of emergency diesel generators (EDGs) is one less than the number in the Technical Specifications Limiting Condition for Operation whenever the reactor is in any mode of operation other than hot shutdown, cold shutdown, refueling, or defueled, and
- (2) to impose a requirement that the time it would take the spent fuel pool water to boil after forced circulation stops must be at least 24 hours.

Background:

As the basis for the first requested action, the petitioner stated that the transmission lines and substations constituting the electrical grid are virtually unprotected targets for terrorists. Likewise, the switchyard at the typical nuclear power plant is outside the security perimeter fences. The likelihood that a successful terrorist attack against the electrical grid could cascade into a station blackout and result in reactor core damage increases the longer the EDGs are out of service.

As the basis for the second requested action, the petitioner stated that terrorists could successfully attack the offsite power transmission lines and/or the water intake system for cooling water and cause spent fuel pool cooling to be stopped. Restricting the time-to-boil to a minimum of 24 hours reduces the likelihood that any such terrorist actions would result in damage to the irradiated fuel in the spent fuel pool because plant workers would have more time to restore the normal cooling system or provide a backup system.

Current Status:

The petitioner was contacted on March 20, 2002. He requested a teleconference with the Petition Review Board (PRB), which was held on March 26, 2002. The petitioner submitted supplements to his petition on March 21 and 22, 2002. The supplements list other groups who wish to be added as co-petitioners. Following the teleconference with the petitioner, the PRB met on March 26, 2002, and agreed that the incoming letter meets the criteria to be considered under the 2.206 process. However, the PRB decided not to grant the part of the petition that requested immediate action pending further evaluation. **An acknowledgment letter and a Federal Register notice on this petition were provided to the Office Director, NRR, for his signature on April 30, 2002.**

Facility:	<u>James A. FitzPatrick/Entergy</u>
Petitioner:	Tim Judson of Citizens Awareness Network (CAN), et al., and petitioners from New York Public Interest Research Group (NYPIRG)
Date of Letter:	2/21/2002
Director's Decision to Be Issued by:	NMSS
Date Referred to Review Organization:	3/11/2002
EDO Number:	20020136
Scheduled Completion Date:	8/12/2002
Last Contact with Petitioner:	3/15/2002
Petition Manager:	Rebecca Karas
Case Attorney:	Jack Goldberg

Issues/Actions requested:

The petitioners request that the NRC order the licensee to suspend the dry cask storage program at the FitzPatrick site. In addition, the petitioners request that the NRC require the licensee to perform several technical and safety evaluations to justify use of the HI-STORM 100 dry cask storage system and the HI-TRAC 100 transfer cask. The petitioners also submit a Demand for Information requesting all information filed regarding dry storage at FitzPatrick be made public. The petitioners request that the Petition Review Board (PRB) submit the petition to Office of the Inspector General for review of the Spent Fuel Project Office's (SFPO's) compliance with NRC regulations, and that NRC review whether staff in SFPO are misguided or complacent. The petitioners further request the NRC conduct an investigation to determine whether the licensee has deliberately circumvented the appropriate technical and regulatory review for the cask design changes.

Background:

The petitioners believe that the design changes made to the HI-STORM 100 storage system are significant enough that NRC review and approval was required, and that there is strong reason to believe that these site-specific changes have been made in violation of NRC regulations and rulings, the Certificate of Compliance for the cask design, and the General License for the storage of spent fuel at power reactor sites in 10 CFR Part 72, Subpart K.

Current Status:

A pre-PRB was held on March 15, 2002, and the petitioners and licensee were contacted on March 15, 2002. The petitioners requested a telephone call with the PRB. That telephone call was completed on March 29, 2002. The PRB also met on March 29, 2002, and agreed that the incoming letter meets the criteria to be considered under the 2.206 process. However, the PRB decided not to grant the part of the petition that requested immediate action to order the licensee to suspend the dry cask storage program. **The PRB determined it was appropriate to send an acknowledgment letter to Mr. Jackson and the other petitioners. The acknowledgment letter was issued on April 12, 2002. A draft Director's Decision is currently being prepared.**

Attachment 2
AGE STATISTICS FOR AGENCY 2.206 OPEN PETITIONS
As of April 30, 2002

ASSIGNED ACTION OFFICE	PETITION NUMBER	FACILITY	Acknowledgment Date	AGE (days)*	Scheduled Completion Date	Comments if not meeting the Agency's 120-day Completion Goal
NRR	G20010389	Salem 1, 2, Hope Creek, Oyster Creek	12/20/2001	130	5/17/2002	Technical staff resource constraints due to formation of NSIR, and the issuance of the ICM Orders.
NRR	G20010485	All 103 Nuclear Power Plants in the U.S.	12/20/2001	130	5/17/2002	" "
NRR	G20010508, G20010556, G20010567, G20020034, G20020051, G20020064, G20020073, G20020085, G20020092, G20020095, G20020096, G20020097, and G20020098	Indian Point 2, 3	12/20/2001	130	5/17/2002	" "
NMSS	G200100461	Carolina Power & Light(CP&L)/ Progress Energy	01/31/2002	89	5/31/2002	
NRR	G20020142	All 103 Operating Nuclear Power Plants in the U.S.	TBD	0	TBD	
NMSS	G20020136	FitzPatrick/Entergy	04/12/2002	18	08/12/2002	

*Age calculated from the date of the acknowledgment letter.

Attachment 3
Table on Status of Public Petitions
Under 10 CFR 2.206 for DDs Issued During the Last 12 Months

Petition Number	Assigned Action Office	Facility	Petition Date	DD Date	Age at Closure ^{1,2} (Months)	Comments
G19990011	NMSS	Moab Site of Atlas Corp.	1/11/1999	5/7/2001*	N/A	Petition Moot and Closed
G20000568	NRR	Indian Point Unit 2	12/4/2000	7/25/2001	4	Partly Granted
G20010159	NRR	All Licensees using Wackenhut Security	4/24/2001	9/28/2001	4	Partly Granted

1) Age calculated from the date of the acknowledgment letter to the proposed Director's Decision issuance.

2) Goals: Acknowledgment letter issued within 5 weeks from date of receipt; proposed DD issued within 120 days of acknowledgment letter.

* No DD issued on this petition.