

October 27, 2004

MEMORANDUM TO: Luis A. Reyes  
Executive Director for Operations

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

SUBJECT: SEPTEMBER 2004 REPORT ON THE STATUS OF PUBLIC PETITIONS  
UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*,  
SECTION 2.206

The attached reports give the status of petitions submitted under Title 10 of the *Code of Federal Regulations*, Section 2.206. As of September 30, 2004, there was one open petition that was accepted for review under the 2.206 process in the Office of Nuclear Reactor Regulation (NRR). One petition was closed in September by NMSS.

Attachment 1 provides a detailed status of the open petitions.

Attachment 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.

Attachment 3 shows the age statistics for the open 2.206 petitions as of September 30, 2004.

Attachment 4 shows the age trend of closed petitions for the last 3 years.

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

Attachments: As stated

CONTACT: Donna Skay, NRR/DLPM  
415-1322

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DATE	10/15/04	10/8/04	10/8/04	10/12/04	10/14/04	10/18/04

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DISTRIBUTION FOR SEPTEMBER 2004 REPORT ON THE STATUS OF PUBLIC PETITIONS  
UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*, SECTION 2.206

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**Status of Open Petitions**

<u>Facility</u>	<u>Petitioner/EDO No.</u>	<u>Page</u>
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Radiac Research Corporation	Michael Gerrard G20030681.....	3

## Report on Status of Public Petitions Under 10 CFR 2.206

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Facility:	<u>Vermont Yankee Nuclear Power Station</u>
Petitioner:	Raymond Shadis, New England Coalition
Date of Petition:	April 22 and <b>September 10, 2004</b>
Director's Decision to be Issued by:	NRR
EDO Number:	G20040284
Proposed DD Issuance:	<b>December 27, 2004</b>
Final DD Issuance:	TBD
Last Contact with Petitioner:	<b>September 22, 2004</b>
Petition Manager:	Alan Wang
Case Attorney:	Stephen Lewis

### Issues/Actions requested:

That the Nuclear Regulatory Commission (NRC or the Commission) order a halt to all fuel movement at Vermont Yankee Nuclear Power Station (Vermont Yankee) until such time as Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc (Entergy or the licensee) has rendered an accurate and NRC-verified account of the location, disposition, and condition of all irradiated fuel, including fuel currently loaded in the reactor core.

### Background:

On April 21, 2004, Vermont Yankee formally notified the NRC that two short spent fuel rod segments were not in the spent fuel pool (SFP) in the location specified in documents. The segments are described as about 7 inches long and 17 inches long, respectively. Both are approximately the diameter of a pencil. These segments had been placed in a special container at the bottom of the SPF in 1980. The licensee initiated an investigation to attempt to locate the missing segments. On May 19, 2004, Entergy reported to the NRC that the visual inspection of the SPF was essentially complete. A camera search of the SPF did not detect the unaccounted for spent fuel rod segments.

The staff contacted the petitioner on April 28, 2004, to discuss the 2.206 process. Following this call, the NRC sent a letter to the petitioner notifying him that all fuel movements had been completed for the current refueling outage prior to the NRC's receipt of his petition. The staff concluded that the petitioner had not identified a safety concern that would prevent the plant from restarting.

The Petition Review Board (PRB) held a teleconference with the petitioner on May 5, 2004. During this teleconference, the petitioner clarified his request to exclude fuel movements associated with locating the missing fuel pin segments from the scope of his request. Following the teleconference, the PRB met in a closed session and determined that the petition satisfied the criteria for review under the 2.206 process. An acknowledgment letter was issued to the petitioner on May 28, 2004.

The NRC determined that its Director's Decision would be based partly on the actions

taken by the licensee to locate the missing fuel. The NRC staff called the licensee on May 11, 2004, and discussed with them a request to document the actions they are taking and the results of these actions. The requests discussed in this phone call are described in a letter to Entergy dated May 21, 2004. By letter dated June 8, 2004, Entergy submitted its response to the NRC's request.

On July 13, 2004, Entergy notified the NRC that the fuel rod segments had been located in the SFP. The pieces had been stored in a unique aluminum cylinder which was previously thought to be part of an existing in-pool structure.

Current Status:

The petitioner supplemented his petition on September 10, 2004. The supplement requested further verification of the current inventory of special nuclear material on site. The PRB held a second teleconference with the petitioner on September 22, 2004. Based on the new information in the supplement and additional requests for action, the NRC staff extended the expected completion date of its review to December 27, 2004. The staff will request additional information from the licensee regarding its material accountability activities at Vermont Yankee.

Facility: Radiac Research Corporation  
Petitioner: Michael Gerrard, representing Neighbors Against Garbage  
Date of Petition: November 4, 2003, as supplemented on February 27, 2004  
Director's Decision to be Issued by: NMSS  
EDO Number: G20030681  
Proposed DD Issuance: 6/14/04  
Final DD Issuance: 9/15/04  
Last Contact with Petitioner: 6/14/04  
Petition Manager: Charles Cox  
Case Attorney: Antonio Fernandez

Issues/Actions requested:

That the NRC close the Radiac Research Corporation (Radiac) because a threat to the common defense and security exists at the facility that is not being considered by the local licensing agency. The petitioner claims that this threat exists because the facility is located in a major population center; security at the facility is poor; and an adjoining hazardous waste storage facility is permitted to handle flammable liquids, reactives, and oxidizers, and has inadequate fire prevention and suppression systems.

Background:

The NRC staff held internal PRB meetings to address the question of immediate action and has concluded that there is no need for immediate action. The petitioner was informed of this decision. Due to scheduling difficulties, a meeting with the petitioner and licensee was delayed to February 20, 2004. At this meeting, the petitioner and licensee indicated that they would submit supplemental information that addresses the applicability of their petition to the 2.206 criteria. On February 27, 2004, the licensee submitted a letter requesting that the NRC dismiss the petition as not meeting the criteria of 2.206. The petitioner also submitted a letter on February 27, 2004, that addressed the question of whether the petition meets the criteria for a 2.206 petition. After considering the petition and supplemental letters, the staff accepted the petition for review under 2.206.

On February 19, 2004, a separate letter was submitted to the NRC by Community Board No. 1 of the City of New York with similar concerns regarding Radiac. The staff issued a letter to the Community Board on March 30, 2004, indicating that it will consider the Board's comments in its review of the application.

Representative Velacquez, in whose district Radiac is located, wrote a letter to Chairman Diaz on December 10, 2003, citing concerns similar to those in the petition. Chairman Diaz replied by letter dated February 24, 2004, stating that the NRC would consider his concerns as part of the review of the petition.

The staff sent a letter to the petitioners on April 27, 2004, stating that the petition meets the criteria for review under 10 CFR 2.206.

On June 14, 2004, the staff issued a proposed Director's Decision to the petitioner. Comments on the proposed Decision were submitted by the petitioner on July 13, 2004

Current Status:

The final Director's Decision was issued on September 15, 2004.



## Status of Potential Petitions Under Consideration

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Facility:	All BWRs with Mark I and II containments
Petitioner:	Nuclear Security Coalition
Date of Petition:	August 10, 2004
EDO Number:	G20040549
PRB meeting:	September 23, 2004

### Issues/Actions requested:

That the NRC:

- (1) Issue a demand for information to the licensees for all Mark I and II BWRs and conduct a 6-month study of options for addressing structural vulnerabilities;
- (2) Present the findings of the study at a national conference attended by all interested stakeholders, providing for transcribed comments and questions;
- (3) Develop a comprehensive plan that accounts for stakeholder concerns and addresses structural vulnerabilities of all Mark I and II BWRs within a 12-month period;
- (4) Issue orders to the licensees for all Mark I and II BWRs compelling incorporation of a comprehensive set of protective measures, including structural protections; and
- (5) Make future operation of each Mark I and II BWR contingent on addressing its structural vulnerability with participation and oversight by a panel of local stakeholders.

### Background:

The petitioners requested a teleconference to address the PRB. Due to difficulties in coordinating the availability of the petitioners, the teleconference was not scheduled until September 23, 2004. The teleconference was subsequently changed to a public meeting to accommodate petitioners who requested to be present.

### Current Status:

The staff is preparing a letter to the petitioners regarding its decision on the acceptability of the petition into the 2.206 process.

Facility: Vermont Yankee Nuclear Power Station  
Petitioner: Paul Blanch and Arnold Gundersen  
Date of letter: July 29, 2004 (G20040511)  
Responsible Office: NRR  
PRB meeting: July 29, 2004, and August 26, 2004

Issues/Actions requested:

That the Nuclear Regulatory Commission (NRC) issue a Demand for Information requiring Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. to provide the NRC with information that describes how Vermont Yankee complies with the General Design Criteria.

Status:

By letter dated August 20, 2004, the NRC staff notified the petitioners that this request would not be treated under 2.206 because it involves a licensing action which is currently open for members of the public to request a hearing. Per the NRC's procedures, a request will not be treated under 2.206 if it can be resolved through the hearing process. Subsequent to being notified of this decision, the petitioners requested an opportunity to address the Petition Review Board. This teleconference was held on August 26, 2004. The staff is reviewing the information provided in the teleconference and will respond to the petitioners with a followup letter.

### AGE STATISTICS FOR AGENCY 2.206 PETITIONS

ASSIGNED ACTION OFFICE	FACILITY	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
NMSS	Radiac Corp.	11/04/03	2/20/04	4/27/04	6/14/04 49	9/15/04 64	Due to scheduling difficulties, a meeting with the petitioner and licensee was delayed to 2/20/04.
NRR	Vermont Yankee	4/22/04	5/11/04	5/28/04 36	<del>9/27/04</del> 12/27/04	TBD	The clock was restarted due to receipt of supplement on 9/10/04

- 1) Goal is to hold a PRB meeting, which the petitioner is invited to participate in, within 2 weeks of receipt of petition (there is often a delay of up two weeks from the date that the letter is issued until it is received by the reviewing organization).
- 2) Goal is to issue acknowledgment letter within 5 weeks 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.

# Average Days to Issuance of Proposed Directors Decisions

