

December 19, 2006

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 2006 REPORT ON THE STATUS OF PUBLIC
PETITIONS UNDER TITLE 10 OF THE *CODE OF FEDERAL
REGULATIONS*, SECTION 2.206

The enclosed report gives the status of petitions submitted under Title 10 of the *Code of Federal Regulations*, Section 2.206. As of November 30, 2006, there were two open petitions that were accepted for review under the 2.206 process; one in the Office of Nuclear Reactor Regulation (NRR) and one in the Office of Nuclear Material Safety and Safeguards. 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, 2006.

Enclosure 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.

Enclosure 3 shows the age statistics for the open 2.206 petitions as of November 30, 2006.

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 staff is addressing the performance goal of ensuring openness in our regulatory process.

Enclosures: As stated

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

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OFFICIAL AGENCY RECORD

DISTRIBUTION FOR NOVEMBER 2006 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*, SECTION 2.206

Date: December 19, 2006

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Status of Open Petitions

<u>Facility</u>	<u>Petitioner/EDO No.</u>	<u>Page</u>
Palisades Nuclear Power Plant	Terry Lodge, Counsel for Petitioners G20060369.....	1
South Texas	Service Employees International Union G20060525.....	3

Report on Status of Public Petitions Under 10 CFR 2.206

Facility:	Palisades Nuclear Power Plant
Petitioners:	Terry Lodge, Counsel for Petitioners
Date of Petition:	April 4, 2006
Director's Decision to be Issued by:	NMSS
EDO Number:	G20060369
Proposed DD Issuance:	November 28, 2006
Final DD Issuance:	February 13, 2007
Last Contact with Petitioner:	December 1, 2006
Petition Manager:	Randy Hall
Case Attorney:	Giovonna Longo

Issues/Actions requested:

That the NRC condemn and force a halt to the use of the two concrete pads holding dry casks storing used nuclear fuel at the Palisades Nuclear Power Plant. The petitioners state that the pads, on which radioactive waste are stored, do not conform with longstanding NRC requirements for earthquake stability standards because they were built on compacted sand and other subsurface materials, dozens of feet above bedrock. In particular, the petitioners claim that the pads are in violation of requirements in 10 CFR 72.212(b)(2)(i)(B).

Background:

The staff held a teleconference with the petitioners on April 26, 2006. The petitioners informed the staff that they would submit a supplement to the petition. The staff delayed making a decision on whether the petition met the criteria of 10 CFR 2.206 pending receipt of the supplement.

On May 4, 2006, the staff sent a letter to the petitioner, acknowledging receipt of the petition and providing a transcript of the teleconference. As of June 30, 2006, the petitioner had not provided a supplement to the petition.

On June 9, 2006, the staff sent a status letter to the petitioner, indicating that the staff will continue to process the petition in accordance with the 2.206 process.

On June 27, 2006, the staff sent a letter to the petitioner stating that the request to condemn and stop the use of the two ISFSI concrete pads does not require immediate action. The letter also stated that the petition was accepted for review under the 2.206 process in part, specifically with respect to slope stability of the concrete pad constructed in 2003. Those portions of the petition concerning the older concrete pad constructed in 1992 and soil liquefaction related to the newer pad were not accepted for review because those issues have already been the subject of NRC staff review and have been resolved.

On August 25, 2006, the staff attempted to reach the petitioner by phone and sent an email to provide a current status.

On October 31, 2006, the staff attempted to reach the petitioner by phone and sent an email to provide a current status.

On December 1, 2006, the NRC staff attempted to reach the petitioner by phone and sent an email transmitting the proposed Director's Decision for comment.

Current Status:

This issue was originally identified as an unresolved item in a previous NRC inspection report, and was forwarded to the Spent Fuel Project Office (SFPO) staff by Region III in a Technical Assistance Request (TAR) dated March 10, 2006. On August 29, 2006, SFPO sent a memorandum back to Region III identifying its remaining questions on the licensee's analysis, which Region III forwarded to the Palisades licensee.

The licensee revised its slope stability analysis for the new pad to address the NRC questions and that revised analysis was provided to NMSS for review on October 24, 2006. The staff has completed its review of the licensee's revised slope stability analysis for the newer pad and finds it acceptable; therefore the NRC staff is proposing to deny the petition.

The NRC staff issued the proposed Director's Decision to the petitioner and to the licensee for comment on November 28, 2006. The NRC asked for comments to be submitted within 30 days of the proposed Director's Decision.

Facility:	South Texas
Petitioners:	Service Employees International Union
Date of Petition:	May 16, 2006, as supplemented June 26, 2006
Director's Decision to be Issued by:	NRR
EDO Number:	G20060525
Proposed DD Issuance:	November 22, 2006
Final DD Issuance:	TBD
Last Contact with Petitioner:	August 7, 2006
Petition Manager:	Mohan Thadani
Case Attorney:	Giovonna Longo

Issues/Actions requested:

That the NRC issue a Demand for Information that would require STPNOC to provide the NRC with copies of:

- (1) any assessments of the safety conscious work environment at STP conducted since January 1, 2004, and
- (2) summaries of any associated action plans and the results of efforts to remediate problems revealed by these surveys and surveys in 2001 and 2003.

Background:

The NRC staff met with the petitioner on June 27, 2006. The petitioner discussed his concerns and requested actions, and provided a supplement to his petition.

The PRB determined that the petition meets the criteria for review under 10 CFR 2.206. An acknowledgment letter was issued on July 28, 2006.

The petition manager spoke with the petitioner on August 7, 2006, for the purpose of post-Petition Review Board (PRB) feedback, and offered another opportunity to meet with the PRB. The petitioner said that he would call back.

The petitioner subsequently called back and indicated that he did not want another meeting with PRB. However, he reiterated that he would like the NRC to respond to his concerns about the licensee's actions regarding the licensee's findings and action plans relative to the 2001 and 2003 surveys.

Current Status:

Region IV staff has completed its inspections addressing the petitioner's concerns. A report of the inspections was used to prepare the proposed Director's Decision. The Office of Enforcement will address the issues related to enforcement actions requested by the petitioner. **The Proposed Director's Decision, issued on November 22, 2006, states that the NRC staff has access to all of the information requested by the petitioner. Therefore, issuance of a DFI to the licensee is not warranted. The NRC staff requested that comments be submitted by December 21, 2006.**

Status of Potential Petitions Under Consideration

Facility: James A. FitzPatrick Nuclear Power Plant
Petitioner: Citizens Awareness Network
Date of Petition: September 13, 2006
EDO Number: G20060789
PRB meeting: 10/12/06

Issues/Actions requested:

That the NRC suspend the operating license for FitzPatrick and suspend the license renewal application until an investigation is completed into the potential chilled work atmosphere due to the licensee's firing of an employee for reporting safety concerns.

Current Status:

The petitioner was contacted by the petition manager on September 22, 2006, to determine if they desire to meet with the PRB. The staff held a teleconference with the petitioner on October 12, 2006. On October 23, 2006, the petitioner submitted a supplement to the petition. **The PRB determined that this petition does not meet the criteria for consideration under 10 CFR 2.206. The NRC based its decision on the fact that:**

- The petitioner did not set forth facts sufficient to constitute a basis for suspending the FitzPatrick operating license.
- The issues regarding potential discrimination are already the subject of ongoing NRC staff review and evaluation in the enforcement process.
- The request to open NRC investigations of false testimony in a Department of Labor proceeding and of a chilled work environment at FitzPatrick, and to reopen the NRC investigation of potential discrimination, cannot be considered in the 10 CFR 2.206 process because such actions are not enforcement-related actions within the meaning of the regulation.
- The request for reinstatement of a FitzPatrick employee is not a request for enforcement-related action within the meaning of 10 CFR 2.206, as NRC has no jurisdiction to provide personal remedies.

Enclosure 2

Facility: Shearon Harris
Petitioner: John Runkle representing WARN, UCS, et.al.
Date of Petition: September 20, 2006
EDO Number: G20060793
PRB meeting: 11/13/06

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.

Current Status:

On October 23, 2006, the staff held a public meeting for the petitioners to address the 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 meets 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. With regard to 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 a letter dated November 27, 2006.

In addition, in its letter dated October 16, 2006, the Orange County Board of Commissioners submitted a resolution concerning emergency preparedness. In its response dated November 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.

Facility: Oyster Creek
Petitioner: Richard Webster, Rutgers Environmental Law Clinic.
Date of Petition: November 7, 2006
EDO Number: G20060933
PRB meeting: TBD

Issues/Actions requested:

A written response from the NRC to address the material condition of the containment drywell shell at the Oyster Creek Nuclear Plant prior to its restart.

Current Status:

The NRC staff reviewed the concerns in the November 7, 2006, letter. In a letter dated November 9, 2006, the NRC staff responded that there is reasonable assurance that the containment drywall shell will be able to perform its design function. In addition, though not expressly stated, it appeared that the petitioner was asking the NRC to take action with respect to a licensed activity pursuant to 10 CFR 2.206. In its letter dated November 9, 2006, the NRC staff asked the petitioner to confirm if this was the intent of the November 7, 2006, letter. No response has been provided from the petitioner to the NRC.

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
NMSS	Palisades	04/04/06	04/26/06	06/27/06 84	11/30/06 11/28/06 118	TBD	
NRR	South Texas	05/16/06	6/27/06	07/28/06 73	11/24/06 11/22/06 118	TBD	

- 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.