

July 6, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Bruce A. Boger, Associate Director **/RA by MCase for/**
for Operating Reactor Oversight and Licensing
Office of Nuclear Reactor Regulation

SUBJECT: JUNE 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 June 30, 2007, there was one open petition that was 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 June 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 June 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: Tanya M. Mensah, NRR/DPR
301-415-3610

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DISTRIBUTION: See next page

ADAMS Accession Number: ML071700592

NRR-106

OFFICE	PM:PSPB	LA:PSPB	BC:PSPB	DD:DPR	ADRO
NAME	TMensah	DBaxley	SRosenberg	HNieh	Bboger/ RA by MCase for/
DATE	7 / 03 / 07	7 / 02 / 07	7 / 05 / 07	7 / 05 / 07	7 / 06 / 07

OFFICIAL AGENCY RECORD

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

Date: July 6, 2007

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Status of Open Petitions

<u>Facility</u>	<u>Petitioner/EDO No.</u>	<u>Page</u>
Shearon Harris	John Runkle representing Waste Awareness and Reduction Network (WARN), Union of Concerned Scientists (UCS), et al. G20060793.....	1

Report on Status of Public Petitions Under 10 CFR 2.206

Facility:	Shearon Harris
Petitioners:	John Runkle representing WARN, UCS, et al.
Date of Petition:	September 20, 2006
Director's Decision to be Issued by:	NRR
EDO Number:	G20060793
Proposed DD Issuance:	April 2, 2007
Final DD Issuance:	June 13, 2007
Last Contact with Petitioner:	June 14, 2007
Petition Manager:	Lisa Regner
Case Attorney:	Giovonna Longo

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.

Background:

On October 23, 2006, the NRC staff held a public meeting for the petitioners to address the Petition Review Board (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 met 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. Regarding 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 letters dated November 27, 2006, and December 27, 2006.

In addition, in its letters dated October 16, 2006, and November 27, 2006, the Orange County Board of Commissioners submitted a resolution concerning emergency preparedness. In its response dated November 27, 2006, and December 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.

The NRC staff has completed its review and is proposing to deny the portions of the petition related to the petitioner's request for enforcement action, the request to conduct a public meeting, and the request to deny the licensee's application for license renewal at Shearon Harris Nuclear Plant. On April 2, 2007, the NRC staff issued the Proposed Director's Decision to the petitioner and to the licensee for comment. The NRC staff asked for comments to be submitted within 30 days of the proposed Director's Decision. On May 1, 2007, the petitioner and the licensee submitted comments on the Proposed Director's Decision to the NRC staff. The 30-day comment period ended on May 3, 2007.

On May 25, 2007, the petition manager contacted the petitioners by email to notify them of an NRC public meeting held from May 30, 2007 - June 1, 2007. The purpose of the public meeting was to discuss topics associated with Progress and Duke Energy's Pilot Program to transition to the risk-informed, performance-based fire protection regulation in 10 CFR 50.48(c), the National Fire Protection Association (NFPA) 805 Rule.

Current Status:

The NRC staff issued the Final Director's Decision on June 13, 2007 (Agencywide Documents Access and Management System Accession No. ML071500403). On June 14, 2007, the petition manager contacted the petitioner by phone and email to provide notification of the issuance of the Final Director's Decision. In accordance with the 10 CFR 2.206 petition process, the Commission has 25 calendar days from the date of the decision to determine whether or not the Director's Decision should be reviewed. In a letter dated June 27, 2007, the petitioner requested that the Commission review the Director's Decision under 10 CFR 2.206.

Status of Potential Petitions Under Consideration

Facility: Indian Point, Units 2 and 3
Petitioner: Mark Leyse
Date of Petition: April 25, 2007
EDO Number: G20070273
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).**

Facility: Davis-Besse
Petitioner: Union of Concerned Scientists (David A. Lochbaum)
Date of Petition: April 30, 2007 and supplement dated May 10, 2007
EDO Number: G20070297
PRB meeting: **June 18, 2007 (public PRB meeting)**

Issues/Actions requested:

FirstEnergy Nuclear Operating Company (FENOC), the licensee for the Davis-Besse Nuclear Power Plant (Davis-Besse), recently submitted a report to the NRC about the hole in the reactor vessel head caused by leakage from cracked control rod drive mechanism (CRDM) nozzles. Consultants paid by FENOC prepared this report located under Agencywide Documents Access and Management System (ADAMS) Accession No. ML070860211. The petitioner requests that the NRC:

1. Immediately Order the Davis-Besse reactor to shut down and remain shut down until the NRC completes its independent review of the recently submitted report.
2. If the NRC's independent review determines that the small leak and fast corrosion rate scenario described in the FENOC-submitted report is valid, immediately Order all pressurized water reactors in the United States to be shut down and remain shut down until the NRC approved either:
 - A. An inspection scope and frequency based on the new scenario that provides protection against the Davis-Besse head damage or,
 - B. An installed leak detection capability that would alert control room operators to small leakage from one or more CRDM nozzles so that repairs could occur prior to damage progressing to Davis-Besse depths.
3. If the NRC's independent review determines that FENOC has submitted yet another inaccurate report to the NRC, revoke the operating license for Davis-Besse.

Current Status:

The PRB considered the petitioner's request for immediate action (Item #1). On May 3, 2007, the petition manager informed the petitioner, by telephone, that the PRB had denied the request for immediate action on the basis that the NRC staff had already performed an assessment of the Exponent Report and that no immediate safety concern exists at Davis-Besse (ADAMS Accession No. ML071240254). In a letter dated May 18, 2007, the NRC conveyed this determination to the petitioner (ADAMS Accession No. ML071300245). The PRB also conveyed in the May 18, 2007, letter that it had not made initial determinations concerning Items #2 and #3 of the petition request.

On May 29, 2007, the petitioner was informed by telephone of the PRB's initial recommendations regarding Items #2 and #3 of the petition request. The petitioner requested a public meeting to address the PRB. **On June 18, 2007, the petitioner addressed the PRB. The PRB is reviewing the petition, and the information provided by the petitioner on June 18, 2007, to determine if Items #2 and #3 of the petition request meet the criteria for review under 10 CFR 2.206.**

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	Shearon Harris	09/20/06	11/13/06	12/04/06 75	04/02/07 119	06/13/07 41	

- 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.