

August 9, 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: JULY 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 July 31, 2007, there were no open petitions 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 July 31, 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 July 31, 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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ADAMS Accession Number: ML072050180

NRR-106

OFFICE	PM:PSPB	LA:PSPB	BC:PSPB	DD:DPR	ADRO
NAME	TMensah	DBaxley	SRosenberg	HNieh	BBoger
DATE	8 /3/ 07	8 /2/ 07	8 /6/ 07	8 /8/ 07	8 /9/ 07

OFFICIAL AGENCY RECORD

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

Date: August 9, 2007

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Status of Open Petitions

Facility

Petitioner/EDO No.

Page

No Open Petitions

ENCLOSURE 1

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 & G20070508
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). **In a letter dated July 17, 2007, the petitioner requested that the Executive Director for Operations overrule the PRB's decision not to accept the petition for review under the 2.206 process. The NRC is reviewing the petitioner's letter dated July 17, 2007.**

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 reviewed the petition, and the information provided by the petitioner on June 18, 2007, to determine if Items #2 and #3 of the petition request met the criteria for review under 10 CFR 2.206.

In a letter to the petitioner dated July 12, 2007 (ADAMS Accession No. ML071870457), the PRB provided its basis for not accepting Item #2 or Item #3 for review in the 10 CFR 2.206 process. To briefly summarize, the PRB decided to reject Item #2 for review in the 10 CFR 2.206 process because the issue was already the subject of NRC staff review and evaluation, for which a resolution was achieved. For Item #3, the PRB asked the petitioner during the June 18, 2007, public meeting for specific examples of inaccurate statements that were provided to the NRC. The petitioner provided two examples, which were noted in the July 12, 2007, letter from the NRC. The first example provided did not meet the criteria in Management Directive (MD) 8.11 for acceptance in the 2.206 process because it did not provide facts sufficient to constitute a basis for the requested action. The second example provided met the criteria in MD 8.11 for rejection because the issue was already the subject of NRC review and evaluation, for which a resolution has been achieved.

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	No Open Petitions						

- 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.