

February 21, 2008

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

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

SUBJECT: JANUARY 2008 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 January 31, 2008, there was one open petition accepted for review under the 2.206 process in the Office of Nuclear Reactor Regulation (NRR). However, NRR accepted a petition for review for Indian Point Units 2 and 3 during the first week of February 2008. Due to the timing of this monthly status report, and to facilitate communication on the status of open petitions, the NRR staff decided to capture this as an open petition in this monthly status report. Information that has changed since the last monthly report is highlighted.

Enclosure 1 provides a detailed status of the open petitions as of February 4, 2008.

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 February 4, 2008.

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: Holly Cruz, NRR/DPR
301-415-1053

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301-415-1053

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ADAMS Accession Number: ML080420092

NRR-106

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|--------|---------|---------|-------------------------|---------|---------------------|
| OFFICE | PM:PSPB | LA:PSPB | BC:PSPB | DD:DPR | ADRO |
| NAME | HCruz | DBaxley | HCruz for SRosenberg | HNieh | MCase for BBoger |
| DATE | 2/11/08 | 2/14/08 | 2/15/08 | 2/19/08 | 2/21/08 |

OFFICIAL AGENCY RECORD

DISTRIBUTION FOR JANUARY 2008 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER TITLE 10 OF THE CODE OF FEDERAL REGULATIONS, SECTION 2.206

Date: February 21, 2008

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Status of Open Petitions

| <u>Facility</u> | <u>Petitioner/EDO No.</u> | <u>Page</u> |
|-------------------------------|--|-------------|
| Vermont Yankee | Raymond Shadis representing New England Coalition (NEC) G20070597 | 1-2 |
| Indian Point Units 2 and 3 | Sherwood Martinelli/..... Friends United for Sustainable Energy (FUSE) G20070540 | 2-4 |

Report on Status of Public Petitions Under 10 CFR 2.206

| | |
|--------------------------------------|----------------------------------|
| Facility: | Vermont Yankee |
| Petitioners: | Raymond Shadis representing NEC |
| Date of Petition: | August 27, 2007 |
| Director's Decision to be Issued by: | NRR |
| EDO Number: | G20070597 |
| Proposed DD Issuance: | March 5, 2008 |
| Final DD Issuance: | TBD |
| Last Contact with Petitioner: | October 3, 2007 (teleconference) |
| Petition Manager: | James Kim |
| Case Attorney: | Giovonna Longo |

Issues/Actions requested:

The petitioner asks that the Nuclear Regulatory Commission (NRC) act immediately to restore reasonable assurance of adequate protection of public health and safety that is now degraded by the failure of the licensee and its employees to report adverse conditions leading to a reduction in plant safety margins.

The petitioner requests:

1. NRC completion of a Diagnostic Evaluation Team examination or Independent Safety Assessment of Vermont Yankee to determine the extent of condition of non-conformances, reportable items, hazards to safety and the root causes thereof.
2. NRC completion of a safety culture assessment to determine why worker safety concerns were not previously reported and the why assessments of safety culture under the Reactor Oversight Process failed to capture the fact or reasons that safety concerns have gone unreported.
3. Derate Vermont Yankee to 50% of licensed thermal power with a mandatory hold at 50% until a thorough and detailed structural and performance analysis of the cooling towers, including the alternate cooling system, has been completed by the licensee; reviewed and approved by NRC; and until the above steps have been completed.
4. NRC investigation and determination of whether or not similar nonconforming conditions and causes exist at other Entergy-run nuclear power plants.

If prompt action can not be taken through the 10 CFR 2.206 process, NEC recommends the NRC exercise its statutory discretion to halt power operation until it can be determined to what extent Vermont Yankee is being operated in an unanalyzed condition and until it can be determined that reduction in margins of public health and safety have been restored and do so prior to screening NEC's letter for acceptance into the 2.206 process.

Background:

On August 27, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. On September 6, 2007, the petitioner was notified by telephone call that the requested immediate action to derate or shutdown the Vermont Yankee Power Plant was denied since the petition did not identify safety hazards sufficient to either derate or shutdown the plant. On September 12, 2007, the NRC staff held a teleconference with the petitioner, providing the opportunity to address the Petition Review Board (PRB). The PRB made an initial recommendation that the petition met the criteria for review under 10 CFR 2.206, and notified the petitioner by telephone of its decision to accept the petition only with respect to the review of technical concerns with the cooling towers on September 26, 2007. The petitioner requested a second opportunity to address the PRB by teleconference. This teleconference was held on October 3, 2007. In an email dated October 3, 2007, the petitioner forwarded additional press articles to supplement the original petition request.

Current Status:

The PRB met on October 17, 2007, in an internal meeting to consider the additional information provided by the petitioner during the October 3, 2007, teleconference. In the meeting, it was determined that the information provided in the petition was credible and sufficient to warrant review under 10 CFR 2.206, with respect to the cooling tower collapse. The final PRB recommendation was provided in an acknowledgement letter to the petitioner on November 6, 2007 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML072920190). The Proposed Director's Decision will be issued by March 5, 2008.

| | |
|--------------------------------------|---|
| Facility: | Indian Point, Units 2 and 3 |
| Petitioners: | Friends United for Sustainable Energy (FUSE – Sherwood Martinelli) |
| Date of Petition: | June 25, 2007 |
| Director's Decision to be Issued by: | NRR |
| EDO Number: | G20070540 |
| Proposed DD Issuance: | May 30, 2008 |
| Final DD Issuance: | TBD |
| Last Contact with Petitioner: | January 30, 2008 (teleconference) |
| Petition Manager: | Douglas Pickett |
| Case Attorney: | Giovonna Longo |

Issues/Actions requested:

The petitioners state that current NRC regulations are prejudiced and biased, usurp Stakeholder rights and presume that license renewal is a foregone conclusion, so long as the licensee spends enough money, and follows guidelines essentially drafted by the powerful nuclear industry lobby, the Nuclear Energy Institute (NEI).

1. The petitioners request that the NRC issue an order enjoining the NRC from considering any new license applications until the NRC regulations are revised to protect the Constitutional First Amendment Rights, as well as the Equal Protection and Due Process Rights of Stakeholders.
2. Based upon the safety and security concerns identified on pages 4-14 of the petition (allegations), the petitioner requests that all licenses for IP be suspended until the site is in full compliance with all local, state and federal laws, statutes, rules and regulations.
3. Request for rulemaking (Part 54).

Background:

On June 25, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. On August 15, 2007, the petition manager contacted the petitioner to acknowledge receipt of the 2.206 petition. The petitioner requested that the allegations contained within the June 25, 2007, letter be handled in accordance with the 2.206 process. The PRB met internally on August 20, 2007, and August 27, 2007, to discuss the petitioner's requests for immediate action (Items #1 and #2). On September 5, 2007, the petition manager informed the petitioner of the PRB's decision to deny the requests for immediate action. A teleconference was scheduled for the petitioner to address the PRB on September 6, 2007. On September 5, 2007, the petitioner requested that the PRB delay the teleconference until October 2007, so that FUSE could focus its resources on responding to the Opportunity for Hearing for the Indian Point License Renewal. Due to multiple failed attempts to contact the petitioner by telephone, the petition manager contacted the petitioner by email on September 26, 2007, to inform the petitioner of the current status of the petition and to coordinate a date for a PRB meeting. The PRB met internally on October 30, 2007, to make an initial recommendation.

Current Status:

The petition manager contacted the petitioner on November 2, 2007, to inform the petitioner of the PRB's initial recommendation to accept the petition with respect to the concerns regarding the Indian Point sirens and groundwater, but deny the request for immediate shutdown. The petitioner requested an opportunity to address the PRB. On November 7, 2007, the NRC received notice that Sherwood Martinelli would be replacing Susan Shapiro as the FUSE point of contact for this petition. On December 21, 2007, the NRC staff held a teleconference with the petitioner, providing the opportunity to address the PRB. The PRB met internally on January 15, 2008, to review the teleconference transcript. **The final PRB recommendation was provided in an acknowledgement letter to the petitioner on February 1, 2008 (ADAMS Accession No. ML080080297). As noted in the acknowledgement letter, the PRB's final recommendation is to accept for review pursuant to 10 CFR 2.206, FUSE's concerns regarding the underground leakage of contaminated water at the Indian Point facility and the failure to implement the new emergency notification siren system in a timely manner. The PRB has taken the further step of consolidating the concern regarding the failure to implement the siren system in a timely manner with a similar issue raised in the FUSE petition of September 28, 2007. This step is being taken due to the similarity of the issues, because both petitions were submitted at approximately the same time, and because the principal external stakeholder for both petitions is the same.**

Therefore, the underground leakage of contaminated water will be addressed through the FUSE petition of June 25, 2007, and the failure to implement the new emergency notification siren system in a timely matter will be addressed through the FUSE petition of September 28, 2007. The Proposed Director's Decision will be issued by May 30, 2008.

Status of Potential Petitions Under Consideration

| | |
|-------------------|--|
| Facility: | Indian Point, Units 2 and 3 |
| Petitioners: | Friends United for Sustainable Energy (FUSE-Sherwood Martinelli) |
| Date of Petition: | September 28, 2007 |
| EDO Number: | G20070700 |
| PRB meeting: | TBD |

Issues/Actions requested:

The petitioner states Entergy has not taken adequate action to ensure the IP2 and 3 emergency sirens are fully operational.

1. The petitioner requests that the NRC issue an order to place IP2 and 3 in cold shutdown until their emergency sirens are fully approved by the Federal Emergency Management Agency (FEMA) and the NRC, and the system is operating within 96 percent.
2. The petitioner requests the NRC fine Entergy \$130,000 per day from September 28, 2007, forward until they have complied with the NRC's order.

Current Status:

By letter dated September 28, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The PRB met internally on October 30, 2007, to determine if the petition met the criteria for review under 10 CFR 2.206. The petition manager contacted the petitioner on November 1, 2007, to inform the petitioner of the PRB's initial recommendation to accept the petition with respect to the concerns regarding the Indian Point sirens, but deny the request for immediate shutdown. The petitioner requested an opportunity to address the PRB. On December 21, 2007, the NRC staff held a teleconference with the petitioner, providing the opportunity to address the PRB. The PRB met internally on January 15, 2008, to review the teleconference transcript. **On January 24, 2008, the petitioner filed an addendum to his petition citing new concerns regarding corrosion that has recently been discovered on some of the new sirens. In addition, the petitioner requested the imposition of daily fines of no less than \$500,000 until such time as the new siren system has been approved and he reiterated his previous request for the immediate shutdown of the Indian Point facilities. To accommodate the submittal of the addendum and allow sufficient time to modify the acknowledgement letter for this petition, the expected issuance date of the acknowledgement letter has been modified. As noted in the acknowledgement letter for the FUSE petition of June 25, 2007, the PRB has consolidated the siren concerns of the June 25, 2007, FUSE petition with the similar concerns of the September 28, 2007, FUSE petition. This step is being taken due to the similarity of the issues, because both petitions were submitted at approximately the same time, and because the principal external stakeholder for both petitions is the same. Therefore, the failure to implement the new emergency notification siren system in a timely matter will be addressed through the FUSE petition of September 28, 2007. An acknowledgement letter to the petitioner will be issued by February 19, 2008.**

ENCLOSURE 2

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 | Vermont Yankee/ Raymond Shadis - NEC | 08/27/07 | 09/12/07 10/03/07 | 11/06/07 71 | 03/05/08 120 | TBD | Delayed due to scheduling PRB meetings with the petitioner, providing the opportunity for the petitioner to provide supplemental information. |
| NRR | Indian Point Units 2 and 3/ Sherwood Martinelli - FUSE | 06/25/07 | 12/21/07 | 02/01/08 221 | 05/30/08 120 | TBD | Delayed at the request of the petitioner. FUSE requested a delay in scheduling a PRB, affording them the opportunity to focus their resources on Indian Point License Renewal Activities. |

- 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.