

April 29, 2014

The Honorable Harold Rogers
Chairman, Committee on Appropriations
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Pursuant to the direction in the Joint Explanatory Statement in House Report 113-135, associated with Division D of Public Law 113-76, the Consolidated Appropriations Act, 2014, I am submitting the enclosed report concerning the issuance of fire protection exemptions for Indian Point Nuclear Generating Unit 3.

The report includes a summary of the public comments received concerning the Environmental Assessment and Finding of No Significant Impact related to these exemptions, a statement concerning the extent of any modifications to the exemptions implemented as a result of the comments received, and a description of how the agency's existing regulations bear on the agency's need to undertake environmental reviews of exemptions to requirements contained in 10 C.F.R. Part 50 or Part 52. The agency responded to these comments in August 2013 in a document that is available on the NRC's public website at accession number ML13203A145.

Should you have any questions about the report, please contact me or Amy Powell, Acting Director of the Office of Congressional Affairs, at (301) 415-1673.

Sincerely,

/RA/

Allison M. Macfarlane

Enclosure:
[As stated](#)

cc: Representative Nita Lowey

Identical letter sent to:

The Honorable Harold Rogers
Chairman, Committee on Appropriations
United States House of Representatives
Washington, DC 20515
cc: Representative Nita Lowey

The Honorable Barbara A. Mikulski
Chairman, Committee on Appropriations
United States Senate
Washington, DC 20510
cc: Senator Richard C. Shelby

The Honorable Mike Simpson
Chairman, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States House of Representatives
Washington, DC 20515
cc: Representative Marcy Kaptur

The Honorable Dianne Feinstein
Chairman, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States Senate
Washington, DC 20510
cc: Senator Lamar Alexander

**U.S. Nuclear Regulatory Commission
Report to Congress in Response to the Joint Explanatory Statement
in House Report 113-135, associated with Division D of Public Law
113-76**

**In the matter of Entergy Nuclear Operations, Inc.
Indian Point Nuclear Generating Unit 3
Environmental Assessment and Finding of No Significant Impact**

Section 1. Summary of Comments

The NRC received over one hundred submissions in response to its publication of Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Unit 3; Environmental Assessment and Finding of No Significant Impact, 78 Fed. Reg. 20144 (April 3, 2013). This notice stated that the NRC was reconsidering its issuance of a revision of existing exemptions from Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix R, “Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979,” for Fire Areas ETN-4 and PAB-2, issued to Entergy Nuclear Operations, Inc., the licensee, for operation of Indian Point Nuclear Generating Unit No. 3, located in Westchester County, NY. At the request of several commenters, the comment period was extended to June 3, 2013, by notice published at 78 Fed. Reg. 26662 (May 7, 2013).

A summary of the comments, in the form of comments submitted by the principal commenters, is presented below. Principal comments were received in letters from Mr. Richard L. Brodsky, Esq., on behalf of himself and others; Mr. Phillip Musegaas on behalf of Riverkeeper, Inc.; and Ms. Alyse Peterson on behalf of the New York State Energy Research and Development Authority. These comments are presented below under the name of the respective commenter.

A number of other comments were received that largely reiterated the points of the principal commenters and/or offered concerns on issues apart from the matter noticed for public comment. These are presented below as “Additional Comments.” The comments set forth below are extracted directly from the views supplied by the principal commenters. They do not reflect the views of the Commission or the NRC staff.

All comments, including the principal comments, are tabled in the “List of All Comments Submitted” following “Additional Comments.” Taken together, the principal comments contain most of the concerns raised by all of the submitted comments.

Comments by Mr. Richard L. Brodsky, Esq.:

Mr. Brodsky claimed that the NRC has not met NRC exemption requirements as they relate to NRC’s statutory obligations under the National Environmental Policy Act (NEPA), the Atomic Energy Act (AEA) and the Administrative Procedure Act (APA). He believes that confusion exists as to the legal status of the exemptions granted in 2007 and as to the reference to “exemptions” rather than a single exemption.

Mr. Brodsky asserted that documents filed in the *Brodsky v. NRC* court proceedings should be made part of the administrative record of this Environmental Assessment (EA) and Finding of No Significant Impact (FONSI), including the letter dated May 10, 2013, from the commenter to Chief U.S. District Judge Preska in the *Brodsky v. NRC* proceeding. In his opinion, it is open to question whether the NRC has taken a “hard look” at the issues raised in this EA and FONSI; a public hearing must be held on this matter; the evidentiary record compiled for consideration of the exemptions is sufficient; and the NRC’s refusal to accept comments by email constitutes an illegal and unfair obstacle to full public participation.

Mr. Brodsky contended that a consequence of a fire lasting longer than 24 minutes would be a meltdown of the reactor, and issuance of this exemption would therefore jeopardize the public

health, safety, and security of almost 20 million people. The adverse impacts of granting the exemption are reasonably foreseeable, are not remote or speculative, and involve catastrophic consequences even if the probability of occurrence is low, according to Mr. Brodsky. He stated that the NRC should withdraw its EA and FONSI and prepare an environmental impact statement (EIS) and/or deny the request for this exemption.

According to Mr. Brodsky, the EA and FONSI do not consider reasonable alternatives to the requested exemption in violation of the AEA, NEPA, the APA, the decisions issued by the Second Circuit and the Southern District of New York, and the NRC's regulations. In his view, the NRC limited its consideration to either issuing the exemption or taking no action at all and did not consider viable alternatives: a requirement that the fire insulation be upgraded to meet the one-hour requirement; a requirement that the fire insulation be upgraded to a different time frame not tied to the Hemyc test results; other non-administrative remedies; and a modification of the Indian Point 3's fire protection program to utilize National Fire Protection Association Standard 805 (NFPA 805). The commenter requested that if the exemption is not denied, the EA and FONSI should be withdrawn until these alternatives are considered as part of a comprehensive environmental impact study.

Mr. Brodsky argued that this exemption is not authorized by law because: (A) the record contains no evidence on the requirement under 10 CFR 50.12 that the exemption is authorized by law; (B) the exemptions are permanent, rather than limited in duration; (C) the NRC's failure to consider relevant and probative evidence renders its prior approval of the exemption unauthorized by law; (D) the NRC's earlier failure to publish the exemption request for public comment invalidates its prior 2007 approval of the exemption; (E) confusion exists over the legal status of the exemption granted in 2007; (F) the NRC has invalidly characterized this proceeding as a reconsideration of the exemption granted in 2007, has failed to provide the public with adequate information regarding the notice-and-comment process, and has not solicited the views of the State of New York as it did in 2007; and (G) the NRC has not considered denying the exemption requests and has arbitrarily limited options to modifying the exemption, thus prejudging the outcome.

Mr. Brodsky contended that the exemption is not consistent with the common defense and security, which is a requirement of 10 CFR 50.12. First, he claimed that the NRC record contains no documents that discuss the common defense and security. Second, in his view, the Hemyc insulation material's failure to meet Appendix R affects the Indian Point Nuclear Plant's ability to withstand fires resulting from acts of terrorism and other breaches of security, and the NRC did not consider this issue. Third, he believes that the NRC did not consider the ability of the administrative controls and manual fire suppression required by the exemption to survive acts of terrorism. Fourth, he stated that the specific elements of the exemption increase the risk and consequences of a terrorist attack. Fifth, he stated that the reliance upon automatic fire detection cannot be credited because the automatic detection system is not a safety-related system. Sixth, he believes that the exemption violates the defense-in-depth approach required by federal regulations.

Mr. Brodsky declared that the exemption will present an undue risk to the public health and safety. He believes that the NRC intentionally and impermissibly used probabilistic analysis for a regulatory scheme that is deterministic. According to Mr. Brodsky, in the NRC's decision to grant an exemption in 2007, the agency intentionally excluded evidence that showed that the licensee's request for an exemption was inherently dangerous, that the exemption cannot and has not been implemented in a manner that is consistent with its own assertions and promises, and that there are alternatives to the exemption that would be effective and possible. Finally, he

asserted that the NRC must take a hard look at evidence of the heightened risk, heightened consequence, and availability of alternatives.

Mr. Brodsky maintained that the NRC record developed for the requested exemption is grossly inadequate as a matter of fact and law. In his view, the record contains no documents that raise concerns about the legality, safety, or propriety of granting the exemption. Specifically, he stated that there are no documents related to the public health, safety, and security; the legal authority for the exemption; the impact of terrorism; the need for full public participation; and the failure to establish the required “special circumstances.” According to Mr. Brodsky, the NRC deliberately excluded from the record and failed to consider dozens of documents that establish that the exemption should not have been granted.

Mr. Brodsky opined that specified licensing documents or categories of documents establish that the exemption request should be denied and that the EA and FONSI should be withdrawn and an EIS should be prepared.

Mr. Brodsky requested that the NRC grant an evidentiary hearing with respect to this exemption request.

Mr. Brodsky claimed that any application of the 2010 NRC regulatory change, which amended the NRC’s regulations to no longer require environmental review and public notice of many exemptions, is inconsistent with the requirements of the recent decision issued by the U.S. Court of Appeals for the Second Circuit.

Comments by Riverkeeper:

Riverkeeper asserted that the NRC should deny the exemption request because it is unauthorized by law and, if maintained, would unacceptably reduce safety margins. Alternatively, the commenter requested that the NRC prepare an EIS that includes reasonable alternatives other than “no action” as well as a cumulative impacts analysis of all exemptions for Indian Point Units 2 and 3.

Riverkeeper requested that the NRC hold a public evidentiary hearing within the vicinity of the Indian Point Nuclear Plant on the requested exemptions. In the alternative, the commenter requested that the NRC convene a Category III Public Meeting to inform the public of the NRC’s consideration of public health and safety.

Riverkeeper maintained that the NRC should revise the *Federal Register* notice that solicited public comment on the EA and FONSI for this exemption to acknowledge that 10 CFR 51.22(c)(9) applies to license amendments, not exemptions that are granted without the issuance of a license amendment. Additionally, the commenter maintained that the NRC should revise that *Federal Register* notice to explain the applicability of 10 CFR 51.22(c)(9) to the requested exemption.

According to Riverkeeper, the NRC should review and consider six documents, and these documents should be made part of the administrative record for this exemption. These documents include (1) NUREG-0050, Recommendations Related to Browns Ferry Fire (Feb. 1976) (ADAMS Accession No. ML070520452); (2) List of Indian Point Exemptions, 1968–2012 (June 20, 2012) (ADAMS Accession No. ML12172A370); (3) NL-07-138, Entergy Reply to Request for Additional Information Regarding License Renewal Application (Fire Protection System and Components), dated November 16, 2007; (4) NL-08-0511, Entergy Reply to

Request for Additional Information Regarding License Renewal Application (Balance of Plant, Fire Protection, and Nickel Alloy), dated March 12, 2008; (5) Entergy Nuclear Indian Point 3, LLC.; Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Unit 3; Exemption, 77 FR 8904 (Feb. 15, 2012); and (6) Letter from Eric J. Leeds, Director, NRC Office of Nuclear Reactor Regulation, to Jerome M. Hauer, Commissioner, New York State Division of Homeland Security and Emergency Services, dated January 31, 2012 (ADAMS Accession No. ML113480448).

Comments by the State of New York:

The State of New York asserted that the NRC should conduct a full environmental review for its reconsideration of this existing exemption based on the risk to public health and safety posed by the conditions that will exist if the exemption is maintained.

The State of New York claimed that the NRC did not evaluate potential impacts from a failure of the fire systems and did not consider the risk of fire. Fire is the leading risk factor for loss of safe shutdown capability, and loss of reactor core cooling capabilities could potentially cause significant radiological environmental impacts. Redundant electrical control systems are important to maintain reactor core cooling capability. For the NRC to meet its NEPA obligations, it must consider every significant impact of a proposed action and compile a record demonstrating that it has taken those impacts into consideration.

According to the State of New York, reports by the NRC's Office of the Inspector General and the Government Accountability Office have found significant deficiencies in the NRC's fire protection program. NRC's Oversight of Hemyc Fire Barriers (Jan. 18, 2008) (ADAMS Accession No. ML080250003); GAO-08-747, NRC Oversight of Fire Protection at U.S. Commercial Nuclear Reactor Units Could be Strengthened, Government Accountability Office (June 30, 2008). The commenter also noted that most commercial nuclear power plants have not yet come into compliance with the NRC's fire protection regulations since their promulgation 30 years ago.

The State of New York contended that, for matters involving nuclear safety, the NRC should account for low-probability events. In the commenter's view, to assure the highest level of safety, it should be assumed that a fire will occur and prepare for the consequences of a worst case scenario. According to the commenter, assuming a fire will be a rare event and making fewer preparations for it results in a lower level of overall safety.

The State of New York opined that actual compliance with the requirements in 10 CFR Part 50, Appendix R, is the best approach.

The State of New York declared that the decision issued by the U.S. Court of Appeals for the Second Circuit in the *Brodsky v. NRC* proceeding placed a burden on the NRC requiring greater examination of the increased probability of accidents arising from the requested exemption. The commenter stated that the NRC has not met this greater burden in its FONSI, and it should complete a full environmental impact assessment.

The State of New York argued that the NRC's FONSI attempts to demonstrate satisfaction of 10 CFR 51.22(c)(9), but the NRC appears to have addressed only the second and third criteria of that provision. The commenter maintained that the NRC did not state or adequately support a finding for the first criteria in 10 CFR 51.22(c)(9) that the exemption involves no significant hazards consideration. Instead, the commenter asserted that the NRC stated that the

requested exemption will not significantly increase the probability or consequences of accidents or the consequences from a fire in the relevant fire zones. The commenter stated that the NRC did not adequately explain why this increase was insignificant. Because the NRC did not make a finding that the exemption involves no significant hazards consideration, the commenter believes that it is inappropriate for the NRC to presuppose that the proposed exemption is correctly attributed to the categorical exclusion in 10 CFR 51.22(c)(9).

According to the State of New York, the NRC has not met its burden to examine the probability of failure in the subjects of the fire safety examination, such as the redundant fire retardant or suppression systems. The commenter stated that the NRC has also not fully examined or adequately measured the risk for purposes of determining whether the action constitutes a significant impact on the environment and thus whether an EIS must be prepared. In the commenter's view, these issues leave open the question whether the NRC has accurately identified the relevant environmental concerns and adequately considered alternatives. In addition, the commenter stated that the NRC did not inquire as to the probability that the 24-minute and 30-minute thermal protection for conduits from fire may fail and, if so, what the consequences would be to public health, safety, and the environment. In the commenter's view, the NRC also did not adequately explain what consequences would result if a fire were to occur, despite the NRC's reasonable assurances.

The State of New York asserted that the NRC's finding of reasonable assurance regarding the potential outcome of a fundamental underpinning of an environmental analysis is inadequate where it "does not describe a probability of failure so low as to dismiss the potential consequences of such failure." *New York v. NRC*, 681 F.3d 471, 478 (D.C. Cir. 2012). In *New York v. NRC*, the Court found that the NRC did not adequately examine the actual probability of harm associated with the failure to thoroughly assess the consequences of fire (in that case, spent nuclear pool fires). *Id.* at 482. The commenter stated that even though the NRC may have offered words here diminishing the probability or harm from a fire incident, it has not caused the level of harm to reduce that probability to a level that is effectively zero, particularly given the consequences of such a failure.

The State of New York declared that a significant reactor release would trigger implementation of protective actions for the public with significant impacts to agricultural production, wildlife, surface or drinking water resources, and the civic infrastructure. Long-term environmental and human health impacts would continue for decades given the half-life of radiological materials released.

The State of New York maintained that the NRC should have examined the alternative of having Indian Point Nuclear Plant's critical electrical cables and equipment comply with the requirements in 10 CFR Part 50, Appendix R.

Additional Comments:

A number of submissions included comments other than those covered by the principal comments presented above:

- Concerns regarding nuclear waste and storage (ML13163A456; ML13170A316; ML13170A283; ML13177A177; ML13163A435; ML13163A436);
- Concerns regarding leaks of radioactive material into the Hudson River (ML13165A041);
- Concerns that fish kills in the Hudson are common and constant because the river is used to dump cooling water (ML13177A179; ML13170A276);

- Concerns expressing general support for energy alternatives (ML13170A277; ML13170A283; ML13177A177; ML13163A434; ML13170A140; ML13170A275);
- Concerns that climate change could cause water levels to rise and flood the plant and accelerate corrosion in buried pipes and cables (ML13163A435; ML13165A041; ML13190A306);
- Concerns regarding earthquake risks: (ML13163A435; ML13163A436; ML13163A438; ML13165A040; ML13165A04; ML13163A435; ML13165A041; ML13177A179);
- Concerns regarding emergency planning and evacuation plans (ML13177A185; ML13163A434; ML13163A435; ML13170A316; ML13170A251; ML13170A282; ML13170A287; ML13163A436; ML13165A044; ML13170A290; ML13170A288);
- Concerns over the safe operation of Indian Point (ML13177A177; ML13163A452; ML13163A465; ML13163A466; ML13165A031; ML13165A033; ML13165A034; ML13165A035; ML13165A041; ML13165A042; ML13170A154; ML13170A320; ML13170A324; ML13170A280; ML13170A281; ML13170A282; ML13170A283; ML13170A293; ML13170A294; ML13177A173; ML13163A434; ML13165A043; ML13170A148);
- Opposition to license renewal of Indian Point (ML13163A436; ML13170A140);
- Opposition to nuclear power and in support of a shut-down of Indian Point (ML13163A455; ML13170A140; ML13177A177; ML13163A434; ML13163A460; ML13165A041; ML13165A044; ML13170A277; ML13170A279; ML13170A282; ML13170A290; ML13177A166);
- Concerns regarding the effects of aging on safe operation of a nuclear facility (ML13163A436; ML13163A456; ML13165A040; ML13165A041; ML13165A042; ML13163A435);
- Concerns regarding the reduced number of resident inspectors at Indian Point (ML13170A316; ML13170A279); and
- Concerns regarding the natural gas lines that are located near the plant (ML13163A186; ML13163A435).

List of All Comments Submitted

The table below provides a complete listing of all comments received. The table includes the submission number, the individual who provided the submission, the NRC's Agencywide Documents Access and Management System (ADAMS) Accession Number for the submission, and references to each of the principal comments that best corresponds to the submission. The agency responded to these comments in NRC Resolution of Public Comments, NRC-2013-063, Indian Point Nuclear Generating Unit No. 3, Draft Environmental Assessment and Finding of No Significant Impact, in August 2013, available in the Public ADAMS database of the NRC's website at accession number ML13203A145. The codes listed in the last column of the table correspond to the comment responses in that document.

Commenter ID	Commenter Name	ML Number	Comment is Addressed in the Response Identified
1	Susan Shapiro	ML13163A186	BC 1; BC 2; BC 3, BC 4, BC 5, BC 7; BC 8, BC 9; RC 1; RC 2; SNYC 1, SNYC 2, SNYC 4, SNYC 5, SNYC 6; SNYC 8, SNYC 9
2	Lynn Flanagan	ML13163A187	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
3	Gary Shaw	ML13163A188	BC 1; BC 3; BC 4; BC 5; BC 8; RC 2; SNYC 2; SNYC 5
4	Tania Venion	ML13163A432	BC 1; BC 2; BC 4; BC 5; BC 7; RC 1; SNYC 1; SNYC 2; SNYC 4; SNYC 6;
5	State of New York (New York State Energy Research and Development Authority)	ML13163A433	SNYC 1 through 11
6	Laurie Seeman	ML13163A434	Separate response provided in Part 3
7	Michel Lee	ML13163A435	BC 1; BC 3; BC 4; BC 5; BC 8; RC 1; RC 2; RC 4; SNYC 2; SNYC 4; SNYC 5; SNYC 6; SNYC 8; SNYC 9; Separate response provided in Part 3
8	Moira Thielking	ML13163A436	BC 1; BC 3; BC 4; BC 5; RC 1; SNYC 2; SNYC 5; Separate response provided in Part 3
9	Judy Allen	ML13163A437	BC 1; BC 2; BC 3; BC 4; BC 5; BC 7; RC 1; SNYC 2; SNYC 4; SNYC 5
10	Steve Mantor	ML13163A438	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
11	Debi Mohan	ML13163A448	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
12	Amy Goldsmith	ML13163A449	BC 1; BC 2; BC 3; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
13	Siobhan Towey	ML13163A450	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
14	Edward Keller	ML13163A451	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11

Commenter ID	Commenter Name	ML Number	Comment is Addressed in the Response Identified
15	Billie Biederman	ML13163A452	BC 1; BC 3; RC 1; Separate response provided in Part 3
16	Robert Braun	ML13163A453	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
17	Patricia Goldsmith	ML13163A454	BC 1; RC 1; SNYC 5; SNYC 11; Separate response provided in Part 3
18	Richard Mangini	ML13163A455	Separate response provided in Part 3
19	Elizabeth Ellsworth	ML13163A456	BC 1; RC 1; SNYC 4; SNYC 5; SNYC 9; SNYC 11; Separate response provided in Part 3
20	Janet Strock	ML13163A457	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
21	Jeffrey Genser	ML13163A458	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
22	Joanna Bagatta	ML13163A459	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
23	Bernard Kessler	ML13163A460	Separate response provided in Part 3
24	Asher Pacht	ML13163A461	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
25	Cheriel Jense	ML13163A462	BC 1; BC 2; BC 7; RC 1; SNYC 1
26	Joshua Farrell	ML13163A463	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
27	Jan Emerson	ML13163A464	BC 1; BC 2; BC 7; RC 1; SNYC 1 SNYC 5
28	Kate Evanciew	ML13163A465	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11; Separate response provided in Part 3
29	Gloria Morrotti	ML13163A466	Separate response provided in Part 3
30	Louise Calabro	ML13163A467	BC 1; RC 1; SNYC 5

Commenter ID	Commenter Name	ML Number	Comment is Addressed in the Response Identified
31	Dorothy Nusbaum	ML13165A029	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
32	Jessica Murphy	ML13165A030	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
33	Dinda Evans	ML13165A031	BC 1; BC 2; BC 3; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 3; SNYC 8; SNYC 11; Separate response provided in Part 3
34	Victoria Furio	ML13165A032	BC 1; BC 3; BC 5; BC 8; RC 1; RC 2; SNYC 2
35	Donna Henes	ML13165A033	Separate response provided in Part 3
36	Unknown	ML13165A034	Separate response provided in Part 3
37	Larry Krasner	ML13165A035	Separate response provided in Part 3
38	Matt Malina	ML13165A036	BC 1; BC 3; BC 5; RC 1; SNYC 2
39	Jana Shakarian	ML13165A037	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
40	John Raveche	ML13165A038	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
41	Ken Gunther	ML13165A039	BC 1; BC 8; RC 2
42	William Davis	ML13165A040	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11; Separate response provided in Part 3
43	Joni Mercado	ML13165A041	Separate response provided in Part 3
44	Christina Volz	ML13165A042	Separate response provided in Part 3
45	Arthur Blum	ML13165A043	Separate response provided in Part 3
46	James Schmitt	ML13165A044	Separate response provided in Part 3
47	Edward Butler	ML13165A045	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11

Commenter ID	Commenter Name	ML Number	Comment is Addressed in the Response Identified
48	Steven Laifer	ML13165A046	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 3; SNYC 8; SNYC 11
49	Unknown 1	ML13165A047	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
50	Doreen Tignanelli	ML13165A048	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
51	Barbara A. Kidney	ML13168A398	BC 1; BC 2; BC 3; BC 7; RC 1; SNYC 1
52	Jill Simon	ML13170A129	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
53	Myra Alfreds	ML13170A133	BC 1; BC 5; RC 1; SNYC 2
54	Anthony Montapert	ML13170A134	BC 1; BC 5; BC 8; RC 1; RC 2; SNYC 2
55	Nathaniel Floyd	ML13170A135	BC 1; BC 3; BC 5; RC 1; SNYC 2
56	Lynn Flanagan	ML13170A137	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
57	Eleanor Fox	ML13170A138	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
58	Nicole Crane	ML13170A139	BC 1; BC 3; BC 5; RC 1; SNYC 2
59	Kevin O'Neill	ML13170A140	BC 3; Separate response provided in Part 3
60	Gary Shaw	ML13170A141	BC 1; BC 3; BC 5; SNYC 2; SNYC 5
61	Wendy Fast	ML13170A142	BC 1; BC 2; BC 5; BC 7; RC 1; SNYC 1; SNYC 2
62	Lisa Gervais	ML13170A143	BC 1; BC 5; RC 1; SNYC 2
63	Mary-Alice Shemo	ML13170A145	BC 1; BC 5; RC 1; SNYC 2; SNYC 5
64	Elaine Dickinson	ML13170A146	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
65	Lourdes Sabio	ML13170A147	BC 1; BC 2; BC 5; BC 7; RC 1; SNYC 1; SNYC 2

Commenter ID	Commenter Name	ML Number	Comment is Addressed in the Response Identified
66	Margaret Rice Moir	ML13170A148	Separate response provided in Part 3
67	Bernard Yozwiak	ML13170A150	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
68	Jean Naples	ML13170A152	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
69	Michele Temple	ML13170A153	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
70	Caroline Rider	ML13170A154	Separate response provided in Part 3
71	Michael Evans	ML13170A155	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
72	Robert Frey	ML13170A314	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
73	Paul Ghenoiu	ML13170A315	BC 1; BC 8; RC 1; RC 2; SNYC 5
74	Millicent Sims	ML13170A316	Separate response provided in Part 3
75	Nicole Weber	ML13170A317	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
76	Sally Smith	ML13170A318	BC 1; BC 3; BC 8; RC 2
77	Elizabeth Pasquale	ML13170A319	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
78	Chris Hazynski	ML13170A320	Separate response provided in Part 3
79	Erma Lewis	ML13170A321	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
80	Jamie Kruse	ML13170A322	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
81	Dolores Baldasare	ML13170A323	BC 1; RC 1; BC 5;

Commenter ID	Commenter Name	ML Number	Comment is Addressed in the Response Identified
82	Stephen Matlak	ML13170A324	Separate response provided in Part 3
83	Susan Didrichsend	ML13170A325	BC 1; BC 3; RC 1;
84	Ronald Lemmert	ML13170A251	Separate response provided in Part 3
85	Dennis Higgins	ML13170A252	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 3; SNYC 8; SNYC 11
86	Scott Richmond	ML13170A253	BC 1; BC 3; RC 1
87	Steve Kostis	ML13170A254	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
88	Joseph Olejak	ML13170A255	BC 1; BC 5; RC 1; SNYC 2
89	Bobbie Flowers	ML13170A256	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
90	Barry De Jasu	ML13170A257	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
91	Janet Azarovitz	ML13170A258	BC 1; BC 3
92	M Dean	ML13170A259	BC 1; BC 3; BC 5; RC 1; SNYC 2
93	Jennifer Valentine	ML13170A260	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
94	Alexa Fila	ML13170A261	BC 1; BC 3; BC 5; RC 1; SNYC 2
95	Michele Johnson	ML13170A262	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
96	Diane Buxbaum	ML13170A272	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
97	Martin Wallace	ML13170A275	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 3; SNYC 8; SNYC 11; Separate response provided in Part 3
98	Meredith Genin	ML13170A276	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11; Separate

Commenter ID	Commenter Name	ML Number	Comment is Addressed in the Response Identified
			response provided in Part 3
99	William Wurtz	ML13170A277	Separate response to comment provided
100	Jared Cornelia	ML13170A278	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
101	Gerson Lesser, M.D.	ML13170A279	Separate response provided in Part 3
102	Debra Winchell	ML13170A280	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11; Separate response provided in Part 3
103	Mary Brown	ML13170A281	Separate response provided in Part 3
104	Maryanne Deracleo	ML13170A282	BC 1; BC 3; RC 1; Separate response provided in Part 3
105	George Costich	ML13170A283	Separate response provided in Part 3
106	Laura Levey	ML13170A284	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
107	Deborah Ross	ML13170A285	BC 1; BC 3; RC 1
108	Joann Ramos	ML13170A286	BC 1; BC 2; BC 5; BC 7; RC 1; SNYC 1; SNYC 2
109	Susan Singer	ML13170A287	BC 1; RC 1; SNYC 5; Separate response provided in Part 3
110	T.ED. Webb	ML13170A288	BC 3; RC 1; Separate response provided in Part 3
111	Dolores Congdon	ML13170A289	BC 3; RC 1
112	Alice Farber	ML13170A290	Separate response provided in Part 3
113	Chris Blyth	ML13170A292	BC 1; BC 3; RC 1; SNYC 2;
114	Brian Fink	ML13170A293	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11; Separate response provided in Part 3
115	Linda Hartinian	ML13170A294	Separate response provided in Part 3

Commenter ID	Commenter Name	ML Number	Comment is Addressed in the Response Identified
116	Thelma Fellows	ML13177A166	BC 1; BC 3; RC 1; Separate response provided in Part 3
117	Art Hanson	ML13177A167	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
118	Natalie Hanson	ML13177A168	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
119	Richard Vultaggio	ML13177A169	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
120	Daniele Gerard	ML13177A184	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
121	Erlend Kimmich	ML13177A185	SNYC 3; Separate response provided in Part 3
122	Richard Brodsky	ML13177A186	BC 1 through 9
123	State of New York (New York State Energy Research and Development Authority)	ML13177A187 NOTE: This is a repeat of entry #5	SNYC 1 through 11
124	Riverkeeper	ML13177A188	RC 1 through 4
125	Peter Cohen	ML13177A173	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
126	Tricia Bhatia	ML13177A174	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11; Separate response provided in Part 3
127	Nina Long	ML13177A175	BC 1; BC 3; RC 1; SNYC 2; SNYC 5
128	Gail Paybe	ML13177A176	BC 1; BC 3; BC 5; RC 1; SNYC 2
129	Richard Weiskopf	ML13177A177	BC 1; BC 3; BC 5; RC 1; SNYC 2; Separate response provided in Part 3
130	Geraldine Collins	ML13177A178	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11;
131	Stephanie Angelis	ML13177A179	Separate response provided in Part 3

Commenter ID	Commenter Name	ML Number	Comment is Addressed in the Response Identified
132	Joan Ashton	ML13177A180	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
133	Erica Gray	ML13177A181	BC 1; BC 2; BC 5; BC 7; BC 8; RC 1; RC 2; SNYC 1; SNYC 2; SNYC 8; SNYC 11
134	Robert L. Fishman	ML13190A006	BC 1; BC 3; BC 4; BC6; RC 1;
135	Andrew W. Dalton	ML13190A007	BC 1; BC 3; BC 4; BC6; RC 1;
136*	Allegra Dengler	ML13190A306	BC 1; BC 4; BC6; RC 1; Separate response provided in Part 3

Section 2. Modifications to the exemptions as a result of public comments received.

No modifications were made to the requested exemptions as a result of public comments. The agency responded to these comments in NRC Resolution of Public Comments, NRC-2013-0063, Indian Point Generating Unit No. 3, Draft Environmental Assessment and Finding of No Significant Impact, in August 2013, available in the Public ADAMS database on the NRC's website at accession number ML13203A145.

Section 3. Whether NRC's existing regulations bear on the need to complete an environmental review of exemptions from requirements in 10 C.F.R. Part 50 or 52.

Publication of the draft EA and FONSI for the requested exemptions included a brief discussion of a related regulatory amendment to inform the public of a topically relevant change in the NRC's regulations occurring since the NRC had earlier approved the requested exemptions in 2007. See 78 Fed. Reg. 20144 (April 3, 2013). The NRC noted that after it approved the requested exemptions in 2007, and the Second Circuit Court of Appeals remanded in *Brodsky v. NRC*, 578 F.3d 175 (2nd Cir. 2009), the agency amended 10 C.F.R. § 51.22, which describes NRC's actions categorically excluded from further environmental review under NEPA. See 75 Fed. Reg. 20248 (April 19, 2010).

That 2010 rulemaking expanded the scope of an existing categorical exclusion in 10 C.F.R. § 51.22(c)(9) to include approvals of licensee exemption requests. Thus, under the revised provisions of 10 CFR § 51.22(c)(9), the NRC need not prepare any environmental review for exemptions from the requirements of Parts 50 and 52 "with respect to installation or use of a facility component located within the restricted area, as defined in [10 C.F.R. Part 20], or which changes an inspection or surveillance requirement," provided there are no significant hazards considerations, no significant increase in offsite effluents, and no significant occupational dose increase. Although NRC approval of exemptions that meet the criteria of this section no longer require preparation of an EA/FONSI, the NRC retains discretion to prepare an EA and FONSI, including an opportunity for public comment, where special circumstances exist. See 10 C.F.R. §§ 51.22(b) and 51.33.