

July 12, 2005

Mr. Paul Gunter
Nuclear Information and Resource Service
1424 16th Street NW, Suite 404
Washington, D.C. 20036

Dear Mr. Gunter:

I am responding to the June 3, 2005 request by you and other petitioners to the Commissioners to "reverse" the May 18, 2005 decision by the U.S. Nuclear Regulatory Commission's (NRC's) Director of the Office of Nuclear Reactor Regulation (NRR), Mr. James Dyer, to deny petitioners' requests for emergency enforcement action concerning emergency backup power to emergency notification systems. In his May 18, 2005 letter, Mr. Dyer concluded that the issues raised in your January 18, 2005 petition are not appropriately addressed under 10 CFR § 2.206 because they involve the imposition of new regulatory requirements. The process described in 10 CFR § 2.802, "Petition for Rulemaking," is the appropriate vehicle for such petitions. Although there is no established process for petitioners to request Commission review of the Director's decision, the Commission wishes to explain why the staff's response to your petition was appropriate.

The Director of NRR informed you that the current standards and requirements have resulted in the implementation of systems, programs, and contingencies that provide reasonable assurance that the populations around nuclear power plants will be made aware of emergencies and recommended protective actions. The ongoing evaluation of the issues by the Federal Emergency Management Agency (FEMA), as directed by Congress, may result in longer term improvements, but there is not a sufficient reason to impose new requirements at this time. Should FEMA decline to take action following the completion of its evaluation, the NRC will reconsider this issue.

Notwithstanding the staff's conclusion that the issues you raised were not appropriate for the 2.206 process, the staff's May 18th letter addressed the specific concerns of your petition after full consideration of the petition and the transcribed presentation you made to the Petition Review Board, attended by FEMA, on April 5, 2005.

The Commission appreciates your continued interest in this matter.

Sincerely,

/RA/

Annette Vietti-Cook
Secretary of the Commission