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July 20, 2005

DOCKETED  
USNRC

July 25, 2005 (11:30am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

VIA FEDERAL EXPRESS

Annette L. Vietti-Cook, Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Attention: Rulemakings and Adjudications Staff

Subject: Petition for Rulemaking  
Amendment to 10 C.F.R. Part 54

Dear Madam Secretary:

On behalf of Mayor Joseph Scarpelli of Brick Township, the New Jersey Environmental Federation and the New Jersey Sierra Club, I am presenting three formal petitions for rule change regarding the standards to apply on relicensing of nuclear power plants. Please file these petitions and take appropriate steps to assure that this petition for rule change is processed in accordance with the Code of Federal Regulations.

It is out understanding that there is a similar petition currently pending before the Nuclear Regulatory Commission and we ask that these petitions be joined together for consideration.

If you have any questions or problems with regard to this petition, please advise immediately. Otherwise, I await your confirmation as to the receipt of this information and its filing. Thank you.

Very truly yours,

*Michele Donato*  
Michele R. Donato

MRD:dp

Encs.

cc: Mayor Joseph Scarpelli (with encs.)  
New Jersey Environmental Federation (with encs.)  
The Sierra Club (with encs.)



# TOWNSHIP OF BRICK

OFFICE OF THE MAYOR

401 CHAMBERS BRIDGE ROAD • BRICK TOWNSHIP, N.J. 08723

JOSEPH C. SCARPELLI  
Mayor

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July 13, 2005

U.S. Nuclear Regulatory Commission  
Annette L. Vietti-Cook, Secretary  
Washington, DC 20555-0001

Attention: Rulemaking and Adjudications Staff

Subject: Petition for Rulemaking  
Amendment to 10 C.F.R. Part 54

Dear Madam Secretary,

Pursuant with NRC Regulation 10 C.F.R. §2.802, which permits interested persons to petition the Commission to issue, amend, or rescind regulations, I, Mayor Joseph C. Scarpelli, formally request that part 54, Requirements for Renewal of Operating Licenses for Nuclear Power Plants, of the Commission's Regulations (10 C.F.R. Part 54) be amended.

*A. The Proposed Amendment*

As Mayor of Brick Township, a community located a mere 18 miles from the Oyster Creek Nuclear Power Plant, I formally petition that 10 C.F.R. Part 54, "Requirements for Renewal of Operating Licenses of Nuclear Power Plants," be amended so as to provide that a renewed license will be issued only if the plant operator demonstrates that the plant meets all criteria and requirements that would be applicable if the plant was being proposed de novo for initial construction. In particular, 10 C.F.R. §54.29 should be amended to provide that a renewed license may be issued by the Commission if the Commission finds that, upon a de novo review, the plant would be entitled to initial operating licenses, as set out in the Commission's regulations, including Parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 73, 100 and the appendices thereto. Corresponding amendments should be made to 10 C.F.R. §§54.4, 54.19, 54.21 and 54.23. NRC Regulation 10 C.F.R. §54.30 should be rescinded. The criteria to be examined as part of a renewal application should include such factors as demographics, siting, emergency evacuation plans, site security, etc. This analysis should be performed in a manner that focuses the NRC's attention on the critical plant-specific factors and conditions that have the greatest potential to affect public safety.

**B. *Interest in the Action Requested***

Brick Township is situated in the northern part of Ocean County, directly on the border of Monmouth County. Brick Township is located approximately 18 miles north of the Oyster Creek Nuclear Generating Station. Like the majority of municipalities in Ocean County, Brick Township experienced great growth over the past four decades. Today, Brick Township is home to over 77,000 residents. In 1970, Brick Township had 35,057 residents.

Ocean County is located on the Jersey Shore, approximately 50 miles south of New York City and 50 miles east of Philadelphia, Pennsylvania. Ocean County encompasses nearly 640 square miles. It's location on the Atlantic Ocean makes Ocean County one of the premier tourist destinations in the United States.

The Oyster Creek Nuclear Generating Station, which is located in Lacey Township, became operational in 1969. In 1970, one year after Oyster Creek began producing electricity, Ocean County, New Jersey had 208,470 residents. According to the 2000 Census, Ocean County today has 510,916 residents, a growth of over 245%.

**C. *Specific Issues Which Support this Proposal***

There have been numerous incidents that have occurred since Oyster Creek began operating that have raised concerns among many people about using nuclear power to generate energy, particularly in densely populated area. The near catastrophe at Three Mile Island, the realized catastrophe at Chernobyl, the controversy about Yucca Mountain and the terrorist attacks of September 11, 2001 have raised concerns about the safety and security of nuclear power plants.

The evacuation of the communities surrounding Oyster Creek is of particular concern and require extensive review and consideration. Traffic congestion is a growing concern in Ocean County as the infrastructure has not kept up with the population growth. Any large scale evacuation would likely be fraught with difficulties that would endanger lives.

**D. *The Problems with the Current Process***

It is respectfully submitted that the process and criteria and presently established in Part 54 is seriously flawed. The process for license renewal appears to be based on the theory that if the plant was licensed originally at the site, it is satisfactory to renew the license, barring any significant issues having to do with passive systems, structures and components ("SSC"s). The regulations, however, should be broadened and sufficiently comprehensive to cover all of the facets (including consideration of a worst-case scenario) that were considered for initial construction. Alternatively, the license renewal process should examine all issues related to the plant and its original license, and then concentrate on any issues that are new to that plant or has changed since the original license was issued or that deviate from the original licensing basis.

Many key factors that affect nuclear plant licensing evolve over time. Population grows, local/state/federal regulations evolve, public awareness increases, technology improves, and plant economic values change. As a result, roads, and infrastructures required for a successful evacuation may not improve along with population density, inspection methods may not be adopted or may be used inappropriately, and regulations may alter the plants design after commercial operation. All of these factors should be examined and weighed in the formal 10 CFR Part 54 relicensing process.

### *E. Key Renewal Issues*

As Oyster Creek approaches the end of its 40 year operating license, it is necessary to answer important questions about the plant. These questions are specific to the Oyster Creek plant and those who live near the plant deserve to have these questions reviewed:

- Could a new plant, designed and built to current standards, be licensed on the same site today? With the growth of Ocean County, which continues today, it is not certain that a nuclear plant would be permitted there today.
- The design of Oyster Creek's reactor has been prohibited for nearly four decades. Does that reactor conform to today's standards? Would Oyster Creek receive a license today with that reactor?
- In light of the terrorist attacks of 9/11, would Oyster Creek's storage system, which is located close to Route 9, be acceptable today?
- Is the evacuation plan realistic in today's Ocean County? Would the tremendous growth of Ocean County over the past four decades, and the failure of Ocean County's infrastructure to keep pace with this growth, inhibit Oyster Creek's likelihood of receiving an operating license?
- Would a license be permitted in light of the public opposition to the plant? To date, 21 municipalities in Ocean County, as well as Congressmen Smith, Saxton and Pallone, NJ Department of Environmental Protection Commissioner Bradley Commissioner, and the Ocean County Board of Chosen Freeholders, have expressed either their concern for a thorough review and/or their opposition to the re-licensing.
- In recent weeks, two studies released by the National Academy of Sciences have raised serious concerns about nuclear plant security and the health effects of low level radiation upon people who reside near nuclear plants. Should not these two new scientific studies and other relevant scientific data regarding human health and anti-terrorism be taken into account when considering Oyster Creek's license renewal application?

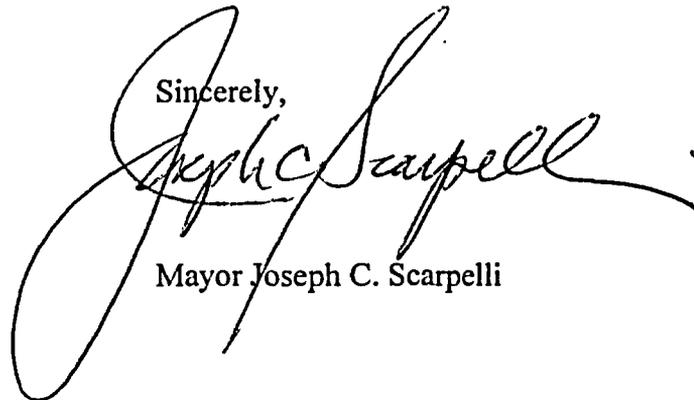
*F. Conclusion*

I trust that the information provided is sufficient to support our request for amendment to 10 CFR Part 54. We would welcome the opportunity to speak with you about the specific sections with which we have concerns and provide you with any further information.

I respectfully request that a docket number be assigned to this petition, that the petition be formally docketed, and that a copy of this petition be made available for public comment.

Should you have any questions, please feel free to contact me at 732-262-1050.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph C. Scarpelli". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Mayor Joseph C. Scarpelli



SIERRA  
CLUB  
FOUNDED 1892

## New Jersey Chapter

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[www.SierraActivist.org](http://www.SierraActivist.org)  
[www.SierraClub.org/NJ](http://www.SierraClub.org/NJ)

July 13, 2005

U.S. Nuclear Regulatory Commission  
Annette L. Vietti-Cook, Secretary  
Washington, DC 20555-0001

Dear Madame Secretary:

Please accept this letter and attachment in support of the petition filed by the Township of Brick, Ocean County, New Jersey and Mayor Joseph C. Scarpelli to amend part 54, Requirements for Renewal of Operating Licenses for Nuclear Power Plants, of the Commission's Regulations (10 C.F.R. Part 54).

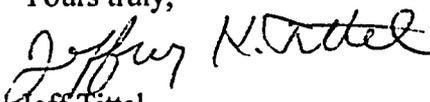
The Sierra Club New Jersey chapter does not believe the current criteria in 10 C.F.R. Part 54 allows the Nuclear Regulatory Commission (NRC) to sufficiently scrutinize important information in its relicensing procedures. We believe the regulations should be amended to include requirements that will factor in demographics, facility siting, emergency evacuation plans, site security, etc. in order to analyze critical plant-specific factors and conditions that may have the greatest potential to affect public safety.

In addition to supporting this effort as a matter of precautionary principle, we specifically believe it relates to imperative conditions at the Oyster Creek Nuclear Generating Facility in Lacey Township which have changed since the plant's opening in 1969. For example, Ocean County is currently one of the fastest growing counties on the Eastern seaboard and has experienced a population explosion that we believe seriously compromises the ability to respond in the event of an emergency.

Our interest in this matter is as a representative of the almost 1,000 members that live in Ocean County, and the 23,000 members in the state of New Jersey. On their behalf we formally submit via this correspondence our support of the above referenced petition for rulemaking. Enclosed is a copy of our Chapter resolution opposing any relicensing extensions for the Oyster Creek facility.

Thank you for your attention to this matter.

Yours truly,

  
Jeff Tittel  
Director

July 13, 2005

U.S. Nuclear Regulatory Commission  
Annette L. Vietti-Cook, Secretary  
Washington, DC 20555-0001

Dear Madame Secretary,

The New Jersey Environmental Federation (NJEF) joins Brick Township Mayor Joseph Scarpelli in his petition to the United States Nuclear Regulatory Commission (NRC) for a Rulemaking Amendment to 10 C.F.R. Part 54.

As interested persons, NJEF has provided testimony and public comment on behalf of its over 70,00 members and 100 member groups in an effort to secure knowledge and understanding about the safety and health risks associated with extending the operating license of Oyster Creek Nuclear Power Plant. While a public forum has been provided, real answers to the many questions and concerns have not been satisfied.

The public seeks assurances from the NRC and the Exelon/Amergen corporations that the continuing of Oyster Creek's operation would have the same scrutiny applied as if it was a new facility going online. This has not been demonstrated in either the company's or the NRC's official responses to public queries. When the Mayor Scarpelli submitted 17 written questions last July, only one was answered.

NJEF questions submitted on May 12 of this year about the changing demographics and evacuation plans they indicated that this was the responsibility of the Federal Emergency Management Agency (FEMA) and that they would now be contacted about the evacuation plan and provide input.

This declaration only evokes more questions. Has FEMA not been involved in or reviewed Oyster Creek's evacuation plan prior to this?

Will FEMA be informed that:

- The latest census figures illustrate in the last three and a half years, Ocean County grew by 7.7 per cent, making it the fastest growing population and development area in New Jersey? (This data does not even include the tens of thousands of summer renters and vacationers.)
- This population is overwhelmingly composed of senior citizens with special needs, and in restricted in access to transportation?
- The plans of the State of New Jersey to close the Garden State Parkway (a major evacuation route) down from three lanes to one lane for road enhancement for a period of two years?

~ more ~

The New Jersey Environmental Federation (NJEF) is the state chapter of Clean Water Action. NJEF has 100 member groups and 70,000 individual members.

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Additional concerns with both the evacuation plan and the latest information on the health risks of exposure to radiation have also surfaced:

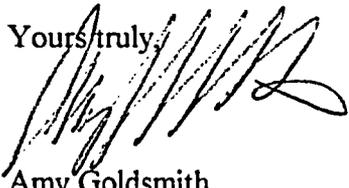
- The Ocean County Emergency Services has determined that it would need 10 hours to evacuate Long Beach Island. In the case of a nuclear event, the plume could permeate the island's air in 7(?) hours.
- The National Academies of Science's (NAS) newly released 700-page report (June 29) *Health Risks from Exposure to Low Levels of Ionizing Radiation* not only reconfirms the knowledge that there are no safe levels of exposure to radiation, but that even very low doses can cause cancer.
- This report (which is the seventh Biological Effects of Ionizing Radiation [BIERVII]) release further indicates that about one in 100 members would get cancer if exposed to 100 millirads (1milliGray) per year for a 70-year lifetime. This is the current NRC allowable radiation dose for members of the public.
- Other health effects such as heart disease and stroke have also been related to low doses of radiation exposure.
- The report went on to state that the Dose and Dose Rate Effectiveness Factor (DDREF) has now been reduced from 2 to 1.5, meaning that the projected number of health risks at low doses are greater than previously thought.

In confirming that all levels of radiation are harmful, the NAS report leads NJEF to the conclusion that the re-licensing of the Oyster Creek Nuclear Power Plant is subjecting the public to ongoing and unnecessary health risks.

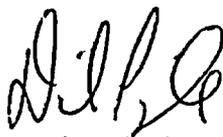
With new public health information, updated demographic statistics and newly announced infrastructure plans that will effect evacuation plans, we believe that Oyster Creek should not be re-licensed, and probably never would be granted a license under current conditions.

Thank you for your attention to this matter.

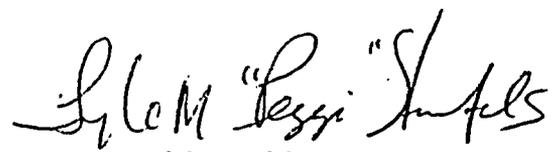
Yours truly,



Amy Goldsmith  
State Director



David Pringle  
Campaign Director



Peggi Sturfels  
Program Organizer