

May 16, 2008

MEMORANDUM TO: R. W. Borchardt  
Executive Director for Operations

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

SUBJECT: APRIL 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," dated February 3, 1994, the enclosed report gives the status of petitions submitted under 10 CFR 2.206. As of April 30, 2008, there were two 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 April 30, 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 April 30, 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: Michelle C. Honcharik, DPR/NRR  
301-415-1774

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301-415-1774

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See next page

ADAMS Accession Number: ML081270286

NRR-106

OFFICE	PM:PSPB	LA:PSPB	BC:PSPB	DD:DPR	ADRO
NAME	MHoncharik	DBaxley	SRosenberg	HNieh	BBoger
DATE	5/12/08	5/12/08	5/12/08	5/14/08	5/16/08

OFFICIAL AGENCY RECORD

Memo to R. W. Borchardt from Bruce A. Boger, dated May 16, 2008

SUBJECT: APRIL 2008 REPORT ON THE STATUS OF PUBLIC PETITIONS UNDER  
TITLE 10 OF THE CODE OF FEDERAL REGULATIONS (10 CFR) SECTION  
2.206

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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	3-4
Indian Point Units 2 and 3	Sherwood Martinelli/..... Friends United for Sustainable Energy (FUSE) G20070700	5-6

Report on Status of Public Petitions Under 10 CFR 2.206

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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:	February 29, 2008
Final DD Issuance:	April 28, 2008
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). On February 29, 2008, the Proposed Director's Decision was issued to the petitioner and to the licensee for comment. No comments were received during the 30-day comment period.

The NRC issued a final Director's Decision on April 28, 2008 (ADAMS Accession No. ML081050456). The NRC's documentation of this review included a non-cited violation in connection with the licensee's inadequate cooling tower inspection program. The NRC inspectors considered the investigations associated with the root cause analyses (RCAs) to be detailed and thorough, and found the licensee's completed and planned corrective actions for future inspections to be acceptable. Based on this inspection, the NRC staff found that the petitioner's concerns have been adequately addressed by the licensee's RCAs and corrective actions.

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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: **February 1, 2008 (Acknowledgement Letter)**  
Petition Manager: Douglas Pickett  
Case Attorney: Giovanna Longo

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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.



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Facility:	Indian Point, Units 2 and 3
Petitioners:	Friends United for Sustainable Energy (FUSE- Sherwood Martinelli)
Date of Petition:	September 28, 2007
Director's Decision to be Issued by:	NRR
EDO Number:	G20070700
Proposed DD Issuance:	September 8, 2008
Final DD Issuance:	TBD
Last Contact with Petitioner:	February 12, 2008 (Acknowledgement Letter)
Petition Manager:	Douglas Pickett
Case Attorney:	Giovonna Longo

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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.

Background:

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.

Current Status:

On February 12, 2008, the NRC staff issued an acknowledgement letter accepting the petition with respect to the siren concerns identified by the petitioner. The licensee currently plans to have the new siren system operational in mid-August 2008. The proposed Director's Decision will reference the successful implementation of the new system. A proposed Director's Decision is scheduled for issuance by September 8, 2008.

Status of Potential Petitions Under Consideration

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Facility: Indian Point, Units 2 and 3  
Petitioners: Mark Edward Leyse  
Date of Petition: March 7, 2008  
EDO Number: G20080162  
PRB meeting: TBD

Issues/Actions requested:

The petitioner requests that the NRC:

1. Revoke the operating license of Indian Point (IP), Units 2 and 3.
2. Order the licensee of IP-2 and 3 to immediately suspend operation of IP, Units 2 and 3.
3. Temporarily shutdown IP, Units 2 and 3. In the event of Option 3, the petitioner requests that the NRC order the licensee to conduct conservative ECCS evaluation calculations for IP 2 & 3 that are compliant with 10 CFR 50.46(a)(1)(i).

Current Status:

By letter dated March 7, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The NRC staff is reviewing the petition to determine if it meets the criteria for review under 10 CFR 2.206.

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Facility: Indian Point, Units 2 and 3  
Petitioners: Thomas Gurdziel  
Date of Petition: March 10, 2008  
EDO Number: G20080180  
PRB meeting: TBD

Issues/Actions requested:

The petitioner requests that:

1. Since enforcement efforts have been totally ineffective, requesting the immediate amendment of the power level at IP Units 2 & 3 from 100% to 0%.
2. Impose sanctions on the Entergy/Indian Point management and ownership organizations, starting with Mr. M. Balduzzi.
3. Place a letter of reprimand in the personnel files for all NRC Enforcement employees who have not documented the performance of the SFP (leaking contaminated water into the ground) as unacceptable - or take other action as the NRC feels appropriate.

ENCLOSURE 2

Current Status:

By letter dated March 10, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The NRC petition review board made an initial evaluation that the petition did not meet the criteria for review under 10 CFR 2.206. In accordance with MD 8.11, Section II.A.2, a letter dated April 14, 2008 (ADAMS Accession No. ML080920228) was sent to the petitioner stating that the criteria were not met. This petition is closed.

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Facility:	McGuire, Units 1 and 2
Petitioners:	William E. Smith
Date of Petition:	March 24 and April 5, 2008
EDO Number:	G20080204
PRB meeting(s):	March 26 and April 9, 2008

Issues/Actions requested:

The petitioner requests that NRC not allow the startup of the units due to a potential meltdown of the reactor resulting from a sudden and massive number of tube ruptures in the u-bend section of any of the "A" feed water heaters on both units.

Current Status:

By letter dated March 24, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The NRC petition review board (PRB) made an initial evaluation that the petition did not meet the criteria for review under 10 CFR 2.206. The petitioner was given the opportunity to provide the PRB with additional information. A public meeting was held on April 7, 2008, at which time the petitioner addressed the PRB. In addition, the petitioner provided supplemental information in a letter dated April 5, 2008. The NRC staff is reviewing the petition, the meeting transcript, and the supplemental information in order to determine if it meets the criteria for review under 10 CFR 2.206.

**AGE STATISTICS FOR AGENCY 2.206 PETITIONS**

Assigned Action Office	Facility/ Petitioner	Incoming petition	PRB meeting <sup>1</sup>	Acknowledgment letter/days from incoming <sup>2</sup>	Proposed Director's Decision (DD) issuance Date/age <sup>3</sup>	Date for final DD/age <sup>4</sup>	Comments Agency's (
NRR	Vermont Yankee/ Raymond Shadis - NEC	08/27/07	09/12/07 10/03/07	11/06/07 71	02/29/08 115	04/18/08 164	
NRR	Indian Point Units 2 and 3/ Sherwood Martinelli - FUSE	06/25/07	12/21/07	02/01/08 221	TBD	TBD	Delayed at th petitioner. FI delay in sche affording ther focus their re Point License Activities.
NRR	Indian Point Units 2 and 3/ Sherwood Martinelli - FUSE	09/28/07	12/21/07	02/12/08 137	TBD	TBD	Delayed at th Petitioner. FI delay in sche affording ther focus their re Point License Activities.

- 1) Goal is to hold a PRB meeting, which the petitioner is invited to participate in, within 2 weeks of receipt of petiti
- 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.