

December 6, 2010

MEMORANDUM TO: Those on the Attached List

FROM: Mohan C. Thadani, Senior Project Manager /RA/  
Plant Licensing Branch IV  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

SUBJECT: G20100592/EDATS: OEDO-2010-0775 – AGENDA FOR PUBLIC  
MEETING REGARDING 10 CFR 2.206 PETITION BY  
MR. LAWRENCE CRISCIONE (TAC NO. ME4721)

Enclosed for your review is a draft of the agenda for the December 13, 2010, meeting of the Petition Review Board (PRB) to obtain additional information from the petitioner, Mr. Lawrence Criscione, regarding his petition pursuant to Title 10 of the *Code of Federal Regulations*, Section 2.206. This agenda is boilerplate for 2.206 PRB meetings.

Please review the draft agenda and provide your comments by close of business on Wednesday, December 8, 2010. The petitioner will provide viewgraphs of his presentation at the meeting.

Thank you for your support.

Enclosure:  
As stated

Memorandum from Mohan C. Thadani dated December 6, 2010

SUBJECT: G20100592/EDATS: OEDO-2010-0775 – AGENDA FOR PUBLIC MEETING REGARDING 10 CFR 2.206 PETITION BY MR. LAWRENCE CRISCIONE (TAC NO. ME4721)

	<u>Mailstop</u>
MEMORANDUM TO: Timothy McGinty, Director Division of Policy and Rulemaking Office of Nuclear Reactor Regulation	O-12E1
Joseph G. Giitter, Director Division of Operating Reactor Licensing Office of Nuclear Reactor Regulation	O-08E2
Tanya M. Mensah, Senior Project Manager Generic Communications and Power Uprate Branch Division of Policy and Rulemaking Office of Nuclear Reactor Regulation	O-12D2
Gregory Cwalina, Senior Allegations Coordinator Division of Engineering Office of Nuclear Reactor Regulation	O-09E3
David Beaulieu, Project Manager Generic Communications and Power Uprate Branch Division of Policy and Rulemaking Office of Nuclear Reactor Regulation	O-12H2
Anton Vogel, Deputy Director Division of Reactor Projects Region IV	RGN-IV
Michael T. Markley, Chief	O-08B1
James T. Polickoski, Project Manager	O-08B1
Lauren K. Gibson, Project Manager Plant Licensing Branch IV Division of Operating Reactor Licensing Office of Nuclear Reactor Regulation	O-08B1
Michael Clark, Senior Attorney Office of the General Counsel	O-15D21
Steven P. Jefferson, Senior Criminal Investigator Office of Investigations	O-03F1
Kristy Bucholtz, Reactor Systems Engineer Technical Specifications Branch Division of Inspection and Regional Support Office of Nuclear Reactor Regulation	O-07C2A

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**DISTRIBUTION:** G20100592/EDATS: OEDO-2010-0775

NON-PUBLIC	RidsNrrPMCallaway Resource
LPLIV Reading	RidsOgcRp Resource
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RidsEdoMailCenter Resource	GCwalina, NRR/DE/AT
RidsNrrDirsltsb Resource	JWalker, RIV
RidsNrrDorl Resource	NTaylor, RIV
RidsNrrDorlLpl4 Resource	RDeese, RIV/DRP/RPB-B
RidsNrrDpr Resource	JWeil, OCA
RidsNrrDprPgcb Resource	GMiller, EDO/RIV
RidsNrrMailCenter Resource	VDricks, OPA RIV

**ADAMS Accession Nos.: Pkg ML103340447**, Incoming ML102640674, ML103280306,  
Memo/Agenda ML103340119 \*via email

OFFICE	NRR/LPL4/PM	NRR/LPL4/LA	NRR/DPR/PGCB/PM	NRR/LPL4/BC	NRR/LPL4/PM
NAME	MThadani	JBurkhardt	TMensah*	MMarkley	MThadani
DATE	12/1/10	12/1/10	12/1/10	12/6/10	12/6/10

**OFFICIAL RECORD COPY**

**DRAFT**

**Petition Review Board Discussion on December 13, 2010,  
with Petitioner Lawrence S. Criscione Regarding 2.206 Petition**

**G20100592/EDATS: OEDO-2010-0775**

**Agenda**

**Purpose:**

1. For the petitioner, Lawrence Criscione, to address the Petition Review Board (PRB) for the petition on request pursuant to Section 2.204 of Title 10 of the *Code of Federal Regulations* (10 CFR) for demand for information (DFI) on October 21, 2003, event at Callaway Plant.
- A. Welcome and Introductions (Mohan Thadani, Petition Manager)
- B. PRB Chairman's Introduction (Timothy J. McGinty, PRB Chair)
- C. Petitioner's Presentation (Lawrence Criscione)
- D. PRB Chairman's Closing Remarks (Timothy J. McGinty)

**Talking Points**

- A. Welcome and Introductions (Mohan Thadani)
  - I'd like to thank everybody for attending this meeting. My name is Mohan Thadani, and I am the Callaway Plant Project Manager. We are here today to allow the petitioner, Mr. Lawrence Criscione, to address the Petition Review Board, regarding his 10 CFR 2.206 petition dated September 17, 2010. I am the Petition Manager for this petition. The Chairman of the Petition Review Board (or PRB) is Mr. Timothy McGinty, Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.
  - As part of the PRB's preliminary review of this petition, the petitioner, Mr. Lawrence Criscione, has requested this opportunity to address the PRB in person.
  - This meeting is scheduled from 1:30 p.m. to 3:00 p.m. (Eastern Time). The meeting is being recorded by the NRC Operations Center and is being transcribed by a court reporter. The transcript will become a supplement to the petition. The transcript will also be made publicly available and will be the PRB meeting summary.
  - I'd like to open this meeting with introductions. As we go around the room, please be sure to clearly state, for record, your name, your position, and the office that you work for within the NRC. I'll start off [Mohan Thadani starts the introductions].

Enclosure

- We've completed introductions at the NRC headquarters. At this time, are there any NRC participants from Headquarters on the phone? Are there any NRC participants from the Regional Offices on the phone? [Regional participants introduce themselves]
- Are there any representatives for the licensee on the phone?
- Mr. Criscione, would you please introduce yourself for the record.
- Are there any others, such as members of the public, at NRC headquarters? Are there any members of the public on the phone?
- I'd like to emphasize that we each need to speak clearly and loudly to make sure that the court reporter can accurately transcribe this meeting. If you do have something that you would like to say, please first state your name for the record.
- For those dialing into the meeting, please remember to mute your phones to minimize any background noise or distractions. If you do not have a "mute" button, this can be done by pressing the keys \* 6. To unmute, press the \*6 keys again. Thank you.
- At this time, I'll turn it over to the PRB Chairman, Mr. Timothy McGinty.

B. Opening Remarks for Timothy McGinty

- Good afternoon. Welcome to this meeting regarding the 2.206 petition submitted by Mr. Lawrence Criscione.
- I'd like to first share some background on our process:

Section 2.206 of 10 CFR describes the petition process – the primary mechanism for the public to request enforcement action by the NRC in a public process. This process permits anyone to petition the NRC to take enforcement-type action related to NRC licensees or licensed activities. Depending on the results of its evaluation, NRC could modify, suspend, or revoke an NRC-issued license or take any other appropriate enforcement action to resolve a problem. The NRC staff's guidance for the disposition of 2.206 petition requests is in Management Directive 8.11, which is publicly available.

After NRC receives a petition, the Executive Director for Operations (EDO) assigns it to the director of the appropriate office for evaluation and response. The original incoming petition is sent to the office and a copy of the petition is sent to the Office of the General Counsel (OGC). The official response is the office director's written decision addressing the issues raised in the petition. The office director can grant, partially grant, or deny the petition. The Commission may, on its own initiative, review the director's decision within 25 days of the date of the decision, although it will not entertain a review for review of the director's decision.

This petition is being reviewed consistent with the guidance of Management Directive 8.11, and for the benefit of the public that may be listening or sitting in this meeting.

- The purpose of today's meeting is to give the petitioner an opportunity to provide any additional explanation or support for the petition before the PRB's initial consideration and recommendation.
  - a. This meeting is not a hearing, nor is it an opportunity for the petitioner to question or examine the PRB on the merits or the issues presented in the petition request.
  - b. No decisions regarding the merits of this petition will be made at this meeting.
  - c. Following this meeting, the Petition Review Board will conduct its internal deliberations. The outcome of this internal meeting will be discussed with the petitioner.
  - d. The PRB typically consists of a Chairman, usually a manager at the senior executive service level at the NRC. It has a Petition Manager and a PRB Coordinator. Other members of the Board are determined by the NRC staff based on the content of the information in the petition request.
  - e. At this time, I would like to introduce the Board.

I am Timothy McGinty, the Petition Review Board Chairman. Mohan Thadani is the Petition Manager for the petition under discussion today. Tanya Mensah is the office's PRB Coordinator. Our technical staff includes:

Anton Vegel is from NRC's Region IV. He is Deputy Director of the Division of Reactor Projects.

David Beaulieu is from the Office of Nuclear Reactor Regulation, Division of Policy and Rulemaking, Generic Communications and Power Uprate Branch.

Kristy Bucholtz is from the Office of Nuclear Reactor Regulation, Division of Inspection and Regional Support, Technical Specifications Branch.

Greg Cwalina is from Office of Nuclear Reactor Regulation, Division of Engineering, and is the Office Allegations Coordinator.

Nick Taylor is from Region IV. He is the Regional Allegations Coordinator.

Pat Jefferson represents the Office of Investigations (OI). He is here regarding investigations of Callaway's October 21, 2003, reactor shutdown event.

We also obtain advice from Office of General Counsel, represented here by Michael Clark.

As described in our process, the NRC staff may ask clarifying questions in order to better understand the petitioner's presentation and to reach a reasoned decision whether to accept or reject the petitioner's requests for review under the 10 CFR 2.206 process.

- I would like to summarize the background to and the scope of the petition under consideration and the NRC activities to date.

### Background

Mr. Lawrence Criscione, previous employee of Union Electric Company, and currently employed by the NRC, previously submitted two petitions pursuant to 10 CFR 2.206 by two letters dated April 29 and 30, 2010. The petitions related to an event on October 21, 2003, at Callaway Plant, Unit 1, where NRC's licensed operators allowed the nuclear reactor to passively shut down, without the licensed operators inserting the control rods in a timely manner. This condition went on for over 100 minutes.

Mr. Criscione asked that the NRC issue an information notice (IN) to inform the other operating reactors' licensees of the event, and issue new Technical Specifications to ensure reactivity control during certain evolutions of the plant operations.

NRC reviewed the two requests and determined that Mr. Criscione had not asked NRC to take an enforcement-related action, which is one of the criteria for accepting a 10 CFR 2.206 petition (MD 8.11). Consequently, the NRC staff rejected the two petition requests and continued the evaluations of petitioner's concerns under routine controlled correspondence. The NRC staff has completed the petitioner's concerns and is close to issuing the proposed IN, and the NRC staff's conclusions regarding proposed Technical Specification changes.

### Current Petition Request

On September 17, 2010, Mr. Criscione requested that the NRC issue a demand for information from Union Electric Company, the licensee for Callaway Plant, Unit 1, pursuant to 10 CFR 2.204, to obtain information related to the October 21, 2003, shutdown.

### NRC Actions Requested by the Petitioner

Specifically, NRC must allege the violations, which the petitioner believes, have occurred as a result of licensee's employee intentionally misleading the NRC's OI investigator, and other employee not being forthcoming about the knowledge of the October 21, 2003, reactor shutdown.

Mr. Criscione cites several excerpts from the OI's transcript to conclude that the licensee's operators testified that they intentionally allowed a passive shutdown of the reactor. Mr. Criscione questions the licensee's operators' training that allows them to intentionally allow the plant to passively shut down.

### NRC Actions to Date

On September 29, 2010, Mr. Mohan Thadani, NRC Petition Manager, contacted the petitioner to explain the 10 CFR 2.206 petition review process. During the discussions, the petitioner requested an opportunity to address the PRB in person to discuss the petition request, after the PRB met internally to make the initial recommendation.

On November 3, 2010, the PRB met internally to discuss the petition and made an initial recommendation that the petition met one of the rejection criteria on the basis that the issues raised by the petitioner have already been reviewed by Region IV in 2007 and 2008 allegations submitted by the petitioner. Those issues have been resolved. Region IV staff concluded that there are no new significant issues raised by the petitioner in his September 17, 2010, petition.

The petitioner was informed of the PRB's initial recommendation on November 4, 2010. The petitioner was also informed that the public version of this 2.206 petition was redacted to remove the names of other individuals mentioned in the petition.

At the petitioner's request, we have convened this public meeting so that the petitioner can address the PRB. Following this public meeting, the PRB will meet internally to make a final recommendation on the petition. Before I turn the meeting over to Mr. Criscione, I would like to remind those on the phone again to please mute your phones to minimize background noise and distractions. In addition, since this meeting is being transcribed, if you do have something that you would like to say, please first state your name for the record. Finally, since this is a public meeting, and the names of other individuals mentioned in the petition have been redacted to protect their privacy, I would ask that the PRB members and the petitioner please refrain from using the names of those other individuals mentioned in the 2.206 petition.

At this time, I will turn the meeting over to Mr. Criscione, so that he can lead us through his presentation.

C. Petitioner's Presentation

D. PRB Chairman's Closing Remarks (Timothy McGinty)

- At this time, does the staff here at Headquarters have any questions for Mr. Criscione? What about the Region?
- (IF THERE ARE ANY MEMBERS OF THE PUBLIC) Before I conclude the meeting, members of the public may provide comments regarding the petition and ask questions about the 2.206 petition process. However, as stated at the opening, the purpose of this meeting is not to provide an opportunity for the petitioner or the public to question or examine the PRB regarding the merits of the petition request.
- Mr. Criscione, thank you for taking time to provide the NRC staff with clarifying information on the petition you've submitted.



- Before we close, does the court reporter need any additional information for the meeting transcript?
- With that, this meeting is adjourned.