

EDO Principal Correspondence Control

FROM: DUE: 04/13/11

EDO CONTROL: G20110171

DOC DT: 03/12/11

FINAL REPLY:

Thomas Saporito  
Saprodani Associates

TO:

Borchardt, EDO

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO:

Leeds, NRR

DESC:

ROUTING:

2.206 - Seeking Enforcement Action Against  
Licensees of the U.S. NRC - Nuclear Power Reactors  
in the U.S. Located on or Near an Earthquake  
Fault-Line (EDATS: OEDO-2011-0192)

Borchardt  
Weber  
Virgilio  
Ash  
Muessle  
OGC/GC  
Burns, OGC  
Mensah, NRR  
Scott, OGC  
Wittick, OEDO

DATE: 03/14/11

ASSIGNED TO:

CONTACT:

NRR

Leeds

SPECIAL INSTRUCTIONS OR REMARKS:

Template: EDO-001

E-RIDS: EDO-01

# EDATS

Electronic Document and Action Tracking System

**EDATS Number:** OEDO-2011-0192

**Source:** OEDO

## General Information

**Assigned To:** NRR

**OEDO Due Date:** 4/13/2011 11:00 PM

**Other Assignees:**

**SECY Due Date:** NONE

**Subject:** 2.206 - Seeking Enforcement Action Against Licensees of the US NRC - Nuclear Power Reactors in the US Located On or Near an Earthquake Fault-Line

**Description:**

**CC Routing:** OGC; tanya.mensah@nrc.gov; Catherine.Scott@nrc.gov

**ADAMS Accession Numbers - Incoming:** NONE

**Response/Package:** NONE

## Other Information

**Cross Reference Number:** G20110171

**Staff Initiated:** NO

**Related Task:**

**Recurring Item:** NO

**File Routing:** EDATS

**Agency Lesson Learned:** NO

**OEDO Monthly Report Item:** NO

## Process Information

**Action Type:** 2.206 Review

**Priority:** Medium

**Signature Level:** NRR

**Sensitivity:** None

**Urgency:** NO

**Approval Level:** No Approval Required

**OEDO Concurrence:** NO

**OCM Concurrence:** NO

**OCA Concurrence:** NO

**Special Instructions:**

## Document Information

**Originator Name:** Thomas Saporito

**Date of Incoming:** 3/12/2011

**Originating Organization:** Saprodani Associates

**Document Received by OEDO Date:** 3/14/2011

**Addressee:** R. W. Borchardt, EDO

**Date Response Requested by Originator:** 4/13/2011

**Incoming Task Received:** 2.206

*Saporito Associates*

---

March 12th, 2011

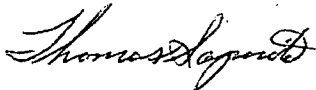
Honorable William Borchardt  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

***In re: Petition Under 10 C.F.R. 2.206 Seeking Enforcement Action Against Licensees of the U.S.  
Nuclear Regulatory Commission***

Dear Mr. Borchardt:

Enclosed herewith, please find a Petition filed under 10 C.F.R. 2.206 seeking enforcement action against licensees of the U.S. Nuclear Regulatory Commission (NRC).

Sincerely,



Thomas Saporito  
Consulting Associate

**UNITED STATES NUCLEAR REGULATORY COMMISSION  
BEFORE THE HON. WILLIAM BORCHARDT**

**In the Matter of:**

**SAPRODANI ASSOCIATES,  
Petitioners**

**DATE: 12 MAR 2011**

**v.**

**NUCLEAR REGULATORY COMMISSION,**

**and the**

**NUCLEAR INDUSTRY,  
Respondents.**

**Docket Nos.: All NRC Licensees**

---

**PETITION UNDER 10 C.F.R. §2.206 SEEKING ENFORCEMENT  
ACTION AGAINST LICENSEES OF THE U.S. NUCLEAR  
REGULATORY COMMISSION**

NOW COMES, Saprodani Associates, ("Petitioners) by and through the undersigned consulting associate, Thomas Saporito, and submits a "*Petition Under 10 C.F.R. §2.206 Seeking Enforcement Action Against Licensees of the U.S. Nuclear Regulatory Commission*", (Petition). For the reasons stated below, the U.S. Nuclear Regulatory Commission (NRC) should grant the Petition as a matter of law:

**NRC HAS JURISDICTION AND AUTHORITY TO GRANT PETITION**

The U.S. Nuclear Regulatory Commission (NRC), is the government agency charged by the United States Congress to protect public health and safety and the environment related to the operation of commercial nuclear reactors in the United States of America (USA). Congress charged the NRC with this grave responsibility in creation of the agency through passing the Energy Reorganization Act of 1974, as amended, 42 U.S.C.A. §5851 (ERA). In the instant action, various utility operators in the USA, are collectively and singularly a "licensee" of the NRC and subject to NRC regulations and authority under 10 C.F.R. §50 and under other NRC regulations and authority in the operation of nuclear reactors within the continental United States. Thus, through Congressional action in creation of the agency; and the fact that the named-actionable parties identified immediately above by Petitioners are collectively and singularly a licensee of the NRC, the agency has jurisdiction and authority to grant the Petition.

## **STANDARD OF REVIEW**

### **A. Criteria for Reviewing Petitions Under 10 C.F.R. §2.206**

The staff will review a petition under the requirements of 10 C.F.R. §2.206 if the request meets all of the following criteria:

- The petition contains a request for enforcement-related action such as issuing an order modifying, suspending, or revoking a license, issuing a notice of violation, with or without a proposed civil penalty, etc.
- The facts that constitute the basis for taking the particular action are specified. The petitioner must provide some element of support beyond the bare assertion. The supporting facts must be credible and sufficient to warrant further inquiry.
- There is no NRC proceeding available in which the petitioner is or could be a party and through which petitioner's concerns could be addressed. If there is a proceeding available, for example, if a petitioner raises an issue that he or she has raised or could raise in an ongoing licensing proceeding, the staff will inform the petitioner of the ongoing proceeding and will not treat the request under 10 C.F.R. §2.206.

### **B. Criteria for Rejecting Petitions Under 10 C.F.R. §2.206**

- The incoming correspondence does not ask for an enforcement-related action or fails to provide sufficient facts to support the petition but simply alleges wrongdoing, violations of NRC regulations, or existence of safety concerns. The request cannot be simply a general statement of opposition to nuclear power or a general assertion without supporting facts (e.g., the quality assurance at the facility is inadequate). These assertions will be treated as routine correspondence or as allegations that will be referred for appropriate action in accordance with MD 8.8, "Management of Allegations".
- The petitioner raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. This would include requests to reconsider or reopen a previous enforcement action (including a decision not to initiate an enforcement action) or a director's decision. These requests will not be treated as a 2.206 petition unless they present significant new information.
- The request is to deny a license application or amendment. This type of request should initially be addressed in the context of the relevant licensing action, not under 10 C.F.R. 2.206.

- The request addresses deficiencies within existing NRC rules. This type of request should be addressed as a petition for rulemaking.

*See, Volume 8, Licensee Oversight Programs, Review Process for 10 C.F.R. Petitions, Handbook 8.11 Part III.*

**REQUEST FOR ENFORCEMENT-RELATED ACTION TO MODIFY,  
SUSPEND, OR REVOKE A LICENSE AND ISSUE A NOTICE OF  
VIOLATION WITH A PROPOSED CIVIL PENALTY**

**A. Request for Enforcement-Related Action**

Petitioners respectfully request that the NRC take escalated enforcement action against the above-captioned licensee(s) and suspend, or revoke the NRC license(s) granted to the licensee(s) for operation of nuclear power reactors; and that the NRC issue a notice of violation with a proposed civil penalty against the collectively named and each singularly named licensee captioned-above in this matter. In particular, Petitioners request that the NRC ORDER the immediate shut-down of all nuclear power reactors in the USA which are known to be located on or near an earthquake fault-line.

**B. Facts That Constitute the Basis for Taking the Requested Enforcement-Related Action Requested by Petitioners**

On or about March 11th, 2011, following an "act of GOD" - an 8.9 magnitude earthquake in the country of Japan, one or more nuclear power reactors in Japan sustained significant damage to their Emergency Core Cooling Systems (ECCS) which resulted in the release of radio-active particles from at least one nuclear reactor into the environment in the surrounding areas in Japan. The Japanese authorities ordered a "General Emergency Evacuation"; however, it appears that many Japanese citizens were not able to timely leave the endangered area and are subject to radio-active contamination at this time.

Petitioners aver here that many of the NRC's licensees which operate nuclear power reactors under permissive licenses issued by the NRC under 10 C.F.R. §50, operate said nuclear power reactors on or near earthquake fault lines - and are therefore subject to significant earthquake damage - similar to the recent earthquake damage sustained by the nuclear power reactors witnessed in the country of Japan for which an on-going state of emergency continues to unfold. Moreover, Petitioners aver here that the licensees' safety-analysis and safety design basis relied upon by the NRC in granting operational licenses to the licensee(s) is flawed and will subject said nuclear power reactors to a Loss-of-Coolant-Accident (LOCA) - similar to the LOCA now occurring in the country of Japan. Thus, the immediate actions sought by Petitioners in the instant action on the part of the NRC, are vital in protecting public health and safety in these dire circumstances.

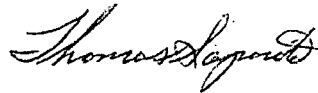
**C. There Is No NRC Proceeding Available in Which the Petitioners are or Could be a Party and Through Which Petitioners' Concerns Could be Addressed**

Petitioners aver here that there is no NRC proceeding available in which the Petitioners are or could be a party and through which Petitioners' concerns could be addressed.

**CONCLUSION**

FOR ALL THE ABOVE STATED REASONS, and because Petitioners have amply satisfied all the requirements under 10 C.F.R. §2.206 for consideration of [their] Petition by the NRC Petition Review Board, (PRB), the NRC should grant Petitioners' requests made in the instant Petition as a matter of law.

Respectfully submitted,



Thomas Saporito, Consulting Associate  
Saprodani Associates  
Post Office Box 8413  
Jupiter, Florida 33468-8413  
Voice: (561) 972-8363  
Email: [thomas@saprodani-associates.com](mailto:thomas@saprodani-associates.com)

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 12th day of March, 2011, a copy of foregoing document was provided to those identified below by means shown:

Hon. William Borchardt  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
{Sent via U.S. Mail and electronic mail}

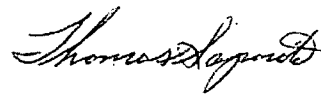
Melanie Checkle, Allegations Coordinator  
U.S. Nuclear Regulatory Commission  
Region II Headquarters  
Atlanta, Georgia 30303  
{Sent via electronic mail}

Hon. Gregory B. Jaczko, Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
{Sent via electronic mail}

Oscar DeMiranda  
Senior Allegations Coordinator  
U.S. Nuclear Regulatory Commission  
Region II Headquarters  
Atlanta, Georgia 30303  
{Sent via electronic mail}

Carolyn Evans, Dir. of Enforcement  
U.S. Nuclear Regulatory Commission  
Region II Headquarters  
Atlanta, Georgia 30303  
{Sent via electronic mail}

Local and National Media Sources



By: \_\_\_\_\_  
Thomas Saporito