

EDO Principal Correspondence Control

FROM: DUE: 07/25/11

EDO CONTROL: G20110477

DOC DT: 06/20/11

FINAL REPLY:

Thomas Saporito
Saprodani Associates

TO:

Vietti-Cook, SECY

FOR SIGNATURE OF :

** GRN **

CRC NO: 11-0368

Leeds, NRR

DESC:

2.206 - Entergy/Palisades, Vermont Yankee and
J. Wayne Leonard (EDATS: SECY-2011-0376)

ROUTING:

Borchardt
Weber
Virgilio
Ash
Mamish
OGC/GC
Satorius, RIII
Dean, RI
Burns, OGC
Mensah, NRR
Scott, OGC
Bowman, OEDO

DATE: 06/23/11

ASSIGNED TO:

CONTACT:

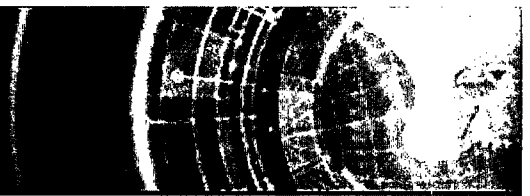
NRR

Leeds

SPECIAL INSTRUCTIONS OR REMARKS:

Template: SECY-017

E-RIDS: SECY-01



EDATS Number: SECY-2011-0376

Source: SECY

General Information

Assigned To: NRR

OEDO Due Date: 7/25/2011 11:00 PM

Other Assignees:

SECY Due Date: NONE

Subject: 2.206 - Entergy/Palisades, Vermont Yankee and J. Wayne Leonard

Description:

CC Routing: RegionIII; RegionI; OGC; Tanya.Mensah@nrc.gov; Catherine.Scott@nrc.gov

ADAMS Accession Numbers - Incoming: NONE

Response/Package: NONE

Other Information

Cross Reference Number: G20110477, LTR-11-0368

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: 6/20/2011

Originating Organization: Saproani Associates

Document Received by SECY Date: 6/23/2011

Addressee: Annette Vietti-Cook, SECTY

Date Response Requested by Originator: NONE

Incoming Task Received: E-mail

**OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET**

Date Printed: Jun 21, 2011 16:47

PAPER NUMBER:	LTR-11-0368	LOGGING DATE:	06/21/2011
ACTION OFFICE:	EDO		
AUTHOR:	Thomas Saporito		
AFFILIATION:	FL		
ADDRESSEE:	Annette Vietti-Cook		
SUBJECT:	2.206 petition...Entergy		
ACTION:	Appropriate		
DISTRIBUTION:	Chairman, Comrs, OGC		
LETTER DATE:	06/20/2011		
ACKNOWLEDGED	No		
SPECIAL HANDLING:			
NOTES:			
FILE LOCATION:	ADAMS		
DATE DUE:		DATE SIGNED:	

EDO --G20110477

Champ, Billie

From: saporito3@gmail.com on behalf of Thomas Saporito [thomas@saprodani-associates.com]
Sent: Monday, June 20, 2011 7:13 PM
To: NRCExecSec Resource
Cc: Jaczko, Gregory; Evans, Carolyn; Checkle, Melanie; DeMiranda, Oscar
Subject: Petition 2.206 (Entergy et al.)
Attachments: 2011.06.20 Petition.pdf

Dear Ms. Cook:

Please provide the attached 2.206 Enforcement Petition to the NRC Executive Director for Operations (EDO) for processing under MD 8.11 accordingly - in connection with NRC licensee Entergy et al.

Kind regards,
Thomas Saporito

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**UNITED STATES NUCLEAR REGULATORY COMMISSION
BEFORE THE EXECUTIVE DIRECTOR FOR OPERATIONS**

In the Matter of:

**SAPRODANI ASSOCIATES, and
THOMAS SAPORITO**

DATE: 20 JUNE 2011

Petitioner,

v.

**ENTERGY NUCLEAR GENERATION,
ENTERGY NUCLEAR, INC.,
ENTERGY NUCLEAR NORTHEAST,
ENTERGY NUCLEAR OPERATIONS, INC.,
ENTERGY NUCLEAR PALISADES, LLC.,
ENTERGY NUCLEAR VERMONT YANKEE, LLC.,
ENTERGY OPERATIONS, INC., AND
J. WAYNE LEONARD, CHAIRMAN, CEO**

Licensee.

**PETITION UNDER 10 C.F.R. §2.206 SEEKING ENFORCEMENT
ACTION AGAINST ENTERGY NUCLEAR GENERATION, ENTERGY NUCLEAR,
INC., ENTERGY NUCLEAR NORTHEAST, ENTERGY NUCLEAR OPERATIONS,
INC., ENTERGY NUCLEAR PALISADES, LLC., ENTERGY NUCLEAR VERMONT
YANKEE, LLC., ENTERGY OPERATIONS, INC., AND
J. WAYNE LEONARD, CHAIRMAN AND CEO**

NOW COMES, Saprodani Associates, by and through and with, Thomas Saporito, Senior Consulting Associate (hereinafter "Petitioner") and submits a "*Petition Under 10 C.F.R. §2.206 Seeking Enforcement Action Against Entergy Nuclear Generation, Entergy Nuclear Inc., Entergy Nuclear Northeast, Entergy Nuclear Operations, Inc., Entergy Nuclear Palisades, LLC., Entergy Nuclear Vermont Yankee, LLC., Entergy Operations, Inc., and J. Wayne Leonard, Chairman, CEO.*" (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 NRC is the government agency charged by the United States Congress to protect

public health and safety and the environment related to 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 (ERA). In the instant action, the above-captioned entities 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 one or more nuclear reactors. Thus, through Congressional action in creation of the agency; and the fact that the named-actionable parties identified above by Petitioner 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

Petitioner respectfully requests 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 for operation of nuclear reactors in the United States; and that the NRC issue a notice of violation with a proposed civil penalty against the collectively named and each singularly named licensee in this matter - in the total amount of \$500,000.00.

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

On June 20th, 2011, the NRC held a public meeting with licensee representatives - in connection with licensed activities at numerous nuclear power plants licensed for operation by the NRC under 10 C.F.R. Part 50, and operated by the licensee - related to a change in the structure for which Quality Control (QC) and Quality Assurance (QA) licensed activities are conducted at the licensee's nuclear power plants. Specifically, the licensee informed the NRC that (1) all QC/QA licensed activities at all of the licensee's nuclear power plants would be overseen and administered from a central corporate entity; and (2) that all QC/QA managers at each of the licensee's nuclear power plants now report directly to the licensee's Chief Nuclear Officer (CNO); and (3) that any QC/QA changes made at any one of the licensee's nuclear power plants would be implemented at the entire fleet of the licensee's nuclear plants - in connection with the licensee's Corrective Action Program (CAP) vis-a-vi initiation of a Condition Report (CR). Thus, the licensee's changes to the QC/QA programs at each of its individual nuclear power plants constitute a "**material**" change to each individual NRC license issued to the licensee authorizing operation of each separate nuclear reactor under 10 C.F.R. Part 50.

Moreover, the licensee's changes made to their QC/QA program infrastructure at each of its nuclear power plants has apparently adversely affected the NRC's ability to protect public health and safety under the agency's Reactor Oversight Program (ROP) because of the interplay and interaction of changes incorporated to the licensee's QC/QA programs et al.

In addition, it appears that the licensee failed to comply with NRC regulations and standards set-out under 10 C.F.R. Part 50, in making material changes to the licensee's QC/QA programs - in connection with licensed operations at their nuclear power plants - which require that the licensee file a License Amendment Request (LAR) for each and every change made in connection with the applicable license at each and every nuclear facility licensed for operation by the NRC for which the licensee operates. In the instant action, it appears that (1) the licensee failed to file any LAR with the NRC authorizing the licensee to make material changes to the QC/QA program at any of the licensee's nuclear power plants; and (2) the licensee failed to update each Final Safety Analysis Report (FSAR) at each and every nuclear power plant for which the licensee made "material" changes to the QC/QA program; and (3) the licensee failed to update the Technical Specifications (TS) at each and every nuclear power plant for which the licensee made "material" changes to the QC/QA program; and (4) the public was not provided adequate notice in the Federal Register with an opportunity to intervene - in connection with the changes made to the licensee's QC/QA program at each of the licensee's nuclear power plants as required under the law.

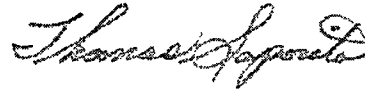
C. There Is No NRC Proceeding Available in Which the Petitioner is or Could be a Party and Through Which Petitioner's Concerns Could be Addressed

Petitioner avers here that 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.

CONCLUSION

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

Respectfully submitted,



Thomas Saporito
Senior Consulting Associate
Saprodani Associates
Post Office Box 8413
Jupiter, Florida 33468-8413
Voice: (561) 972-8363

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 20th day of June, 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}

Hon. Gregory B. Jaczko, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
{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

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

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



By: _____

Thomas Saporito
Senior Consulting Associate