

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555

OFFICE OF THE  
COMMISSIONER

February 25, 1980

Ms. Jo Levinson  
Jada Lane  
Greenwich, Connecticut 06830

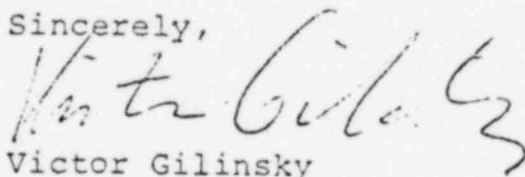
Dear Ms. Levinson:

Thank you for your letter of February 8 expressing support for the petition filed by the Union of Concerned Scientists requesting the decommissioning of Indian Point Unit 1 and the suspension of operations at Units 2 and 3. As you may know, the Commission's Staff has issued a decision partially granting and partially denying the UCS petition. The Order requires the licensee to show why Unit 1 should not be decommissioned and to make a number of modifications to Units 2 and 3.

The Commission is currently reviewing the Staff's decision and has asked the public to comment upon the course of action it should follow (see enclosed Federal Register notice). After public comment has been received, the Commission will decide what further action to take.

I appreciate the interest which you have shown in this matter.

Sincerely,

  
Victor Gilinsky  
Commissioner

Enclosure: a/s



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measures should implemented in accordance with the schedule prescribed by this Order.

Operation of the facility on terms consistent with this Order is not stayed by the pendency of any proceedings on the Order.

Dated at Bethesda, Maryland, this 14th day of February, 1980.

For the Nuclear Regulatory Commission,  
Edson G. Case,  
Acting Director, Office of Nuclear Reactor Regulation.

(FR Doc. 80-3319 Filed 2-21-80; 8:45 am)  
BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.;  
Issuance of Amendment to Facility  
Operating License.

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of the date of its issuance.

The amendment changes the Technical Specifications to allow the count rate in the Source Range Monitor channels to drop below 3 counts per second when the entire reactor core is being removed or replaced.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 2, 1980, (2) Amendment No. 57 to License No. DPR-49, and (3) the Commission's related

Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 15th day of February 1980.

For the Nuclear Regulatory Commission,  
Thomas A. Ippolito,  
Chief, Operating Reactors Branch Number 3,  
Division of Operating Reactors.

(FR Doc. 80-3311 Filed 2-21-80; 8:45 am)  
BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.;  
Issuance of Director's Decision Under  
10 CFR 2.206

On July 6, 1979, notice was published in the Federal Register (44 FR 39648) that Citizens United for Responsible Energy (CURE), Community Action Research Group, and Iowa Public Interest Research Group had requested that the Director of Nuclear Reactor Regulation order suspension of License Amendment No. 46 to License No. DPR-49 for the Duane Arnold Energy Center. The Director has treated this petition as a request for action under 10 CFR 2.206. After a review of the relevant information, the Director has determined that there is no basis for suspending Amendment No. 46 to License No. DPR-49. Accordingly, the request by CURE, et al. has been denied.

Copies of the Director's decision are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of this decision will also be filed with the Secretary of the Commission for review by the Commission in accordance with 10 CFR 2.206(c) of the Commission's regulations.

As provided in 10 CFR 2.206(c), this decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission on its own motion institutes a review of this decision within that time.

Dated at Bethesda, Maryland this 10th day of February, 1980.

Harold R. Denton,  
Director, Office of Nuclear Reactor Regulation.

(FR Doc. 80-3512 Filed 2-21-80; 8:45 am)  
BILLING CODE 7590-01-M

[Dockets Nos. 50-3, 50-247, and 50-286]

Consolidated Edison Co. of New York (Indian Point, Units Nos. 1 and 2) and Power Authority of the State of New York (Indian Point, Unit No. 3);  
Solicitation of Comment on Director's Decision Under 10 CFR 2.206

On February 5, 1980, the Nuclear Regulatory Commission authorized the Director of its Office of Nuclear Reactor Regulation (NRR) to issue orders relating to the Indian Point nuclear facility (Units 1, 2 and 3) in Buchanan, New York. These orders constitute a partial grant and a partial denial of a petition to the Commission, filed by the Union of Concerned Scientists in September 1979. The petition was treated as a petition under 10 CFR 2.206 of the Commission's rules, under which persons may request the Director of NRR to institute a proceeding to modify, suspend, revoke, or take such other action as may be proper with regard to a specific license.

One order directs the licensee to show cause why Unit 1 should not be decommissioned. A second order directs the licensees (Consolidated Edison of New York and the Power Authority of the State of New York) to take a number of short-term actions designed to increase the safety of Units 2 and 3. The orders with respect to Units 2 and 3 were "confirmatory orders", meaning that they gave legal force to commitments already agreed to by the licensees. The Director's decision denies the UCS petition with regard to Units 2 and 3.

In authorizing the Director of NRR to issue these orders, the Commission made clear that it had not made a final judgment as to the merits of the orders, nor as to the form further Commission consideration of the matter should take. The Commission expressed its intent to seek the views of the interested public and parties before deciding which of several possible forms its further consideration of the Director's actions will take. The Commission decided against prohibiting operation of Units 2 and 3 pending further consideration of this matter. This determination was without prejudice to re-examining the continued acceptability of operation of these facilities in future consideration of this matter. The purpose of this Notice is

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to solicit views both on the merits of the Director's decision and on the form that further Commission consideration should take.

Under the Commission's rules, a Director's partial or complete denial of a petition under 10 CFR 2.206 is reviewable by the Commission on its own initiative, if the Commission decides within 20 days of the Director's action to exercise that authority. The 20-day period may be extended. In addition, as 10 CFR 2.206(c) states explicitly, the Commission's power to review staff actions under this provision of the rules does not limit in any way the Commission's supervisory authority over delegated staff actions. The Commission also retains the authority to initiate rulemaking actions which may affect these and other nuclear power plants.

The Commission's options include those listed below. This list is not exhaustive, and some of the options are not mutually exclusive.

1. *Review Director's denial.* Under this option, the Commission would review the Director's denial on its merits.

2. *Decline to review Director's denial.* Under this option, the Commission would continue to exercise its supervisory power over the staff, and could step in if it saw the need for additional action.

3. *Initiate rulemaking proceeding to consider societal risks at nuclear power plants in high-density population areas.* Under this approach, the generic issues common to facilities located in high-density population areas would be considered in a rulemaking proceeding. This proceeding would explore issues such as the safety measures appropriate for nuclear power reactors in high population density areas.

4. *Refer Director's denial to a licensing board or to the Commission itself for adjudication.* Under this approach, the acceptability of the Director's denial would be tested in a formal adjudicatory hearing. If the decision were referred to a licensing board, the Commission would have the opportunity to review the decision reached by that board.

5. *Conduct an informal proceeding before the Commission.* Under this approach, designated parties would present their views on the correctness and sufficiency of the Director's decision in an informal format. Such a proceeding could either precede or follow a Commission decision on whether to review the Director's denial.

The Commission welcomes the views of interested parties and the public on these and other options, and on the

merits of the Director's denial. The Commission requests that these comments be filed no later than February 29, 1980. In order to permit thorough consideration of the Director's denial in light of the comments that may be filed, the period within which the Commission may exercise its authority to review the Director's denial has been extended until March 7, 1980.

Dated at Washington, D.C., the 15th day of February 1980.

For the Commission,  
Samuel J. Chilk,  
*Secretary of the Commission.*

#### Separate Views of Commissioner Glinesky

I agree that the Director's orders dealing with safety improvements at the Indian Point and Zion power plants should be immediately effective. However, in continuing to deal with this matter as a review of the Director's response to a petition under part 2.206 of the Commission's regulations, the standard for which is whether the Director abused his discretion, the Commission is tip-toeing around its responsibilities when it should be confronting them directly.

The importance of the questions facing the Commission cannot be doubted. The far reach of the Director's orders underlines this point. The NRC staff estimates that operation of the Indian Point and Zion plants contributes approximately 40 percent of the total accident risk attributable to nuclear power generation in the United States.

The Commission must come to grips, as soon as possible, with three questions: whether it should adopt the safety policy and objective for existing reactors near high concentrations of population implicit in the Director's approach, or whether it should adopt another safety objective; whether the measures prescribed by the Director meet the safety standard approved by the Commission; and whether the plants may continue to operate while the first two questions are being resolved.

The Commission should now obtain public comment to help it formulate the safety policy and objective that should guide remedial action at Indian Point and Zion. After such a policy has been adopted, and this should take no more than 90 days, the Commission should appoint Atomic Safety and Licensing Boards to adjudicate the adequacy of the safety measures prescribed by the Director in terms of the safety objective adopted by the Commission. In view of the significance of the issues to be decided by the Licensing Board, the Commission should now decide that it will review the Board's determination. Finally, the Commission should decide at the outset, on the basis of a fuller record than it has before it, whether to permit continued operation of the plants during the foregoing hearings. That record should cover not only the safety state-of-affairs at the Indian Point and Zion plants, and the degree of public protection possible, but also the present need for the electricity generated by these plants.

#### Separate Views of Commissioner Bradford

I agree that this Federal Register Notice states the decision reached by the Commission, and I therefore concur in issuing it. However, I would have preferred to have taken the Director's decision as advisory to the Commission and put it out for comment on that basis. The Commission itself would then have spoken with some finality at the outset in charting the procedural course to deal with the questions raised by Indian Point.

In the present Federal Register Notice, I think it a mistake to list Options 1 and 2 (review and no review). It is inconceivable that the Commission will not review some aspects of the Indian Point question, and potential commenters should not have been asked to waste their time preparing comments on "options" not really before us. Additionally, the Federal Register Notice should have expressly noted that the Commission's decision in this matter could affect other nuclear power plants in densely populated areas besides Indian Point 2 and 3. For example, the Director will shortly issue confirmatory orders for Zion Units 1 and 2 which will be similar to the orders for Indian Point Units 2 and 3.

Based on the staff assessment that the public health and safety is adequately protected, it is my view that Indian Point 2 and 3 may be permitted to continue in operation at least pending Commission review of the comments solicited here. Nevertheless, there seems to be wide agreement that the Indian Point site would not be acceptable by today's standards. Consequently, the long run acceptability of these two units, even with the proposed changes, remains an open question in my view. It is a question that requires a maximum of informed assessment of the risks and the benefits and the alternatives by citizens in the area and by the government of the state of New York as well as by this agency. Future proceedings will need to be structured with this need in mind.

(FR Doc. 80-5508 Filed 2-21-80; 8:45 AM)  
BILLING CODE 7590-01-M

[Docket No. 80N-0063]

#### Potassium Iodide for Thyroid Blocking in a Radiation Emergency Only; Approval and Availability

Cross Reference: For a document issued by the Food and Drug Administration that announces approval and availability of potassium iodide for thyroid blocking in a radiation emergency, see FR Doc. No. 80-5644 appearing elsewhere in the "notices" section of this issue of the Federal Register.

BILLING CODE 4110-03-M

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