

NUCLEAR REGULATORY COMMISSION

10 CFR Part 54

[Docket No. PRM-54-03]

Joseph Scarpelli, Mayor of Brick Township, New Jersey;

Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated July 20, 2005, which was filed with the Commission by Michele R. Donato, Esquire, on behalf of Mayor Joseph Scarpelli of Brick Township. The petition was docketed by the NRC on July 25, 2005, and has been assigned Docket No. PRM-54-03. The petitioner requests that the NRC amend its regulations to provide that a renewed license will be issued only if the plant operator demonstrates that the plant meets all criteria and requirements that would be applicable if the plant was being proposed *de novo* for initial construction.

DATE: Submit comments by **(insert date 75 days after publication in the Federal Register)**.

Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include *PRM-54-03* in the subject line of your comments. Comments on petitions submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; email cag@nrc.gov. Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (Telephone (301) 415-1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at

<http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1-800-397-4209, 301-415-4737 or by email to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone: 301-415-7163 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION:

The Petitioner

The petitioner is the Mayor of Brick Township, New Jersey. Brick Township is situated in the northern part of Ocean County, directly on the border of Monmouth County, New Jersey. Brick Township is located approximately 18 miles north of the Oyster Creek Nuclear Generating Station. The petitioner states that Brick Township experienced great growth over the past four decades. Today, Brick Township is home to over 77,000 residents. In 1970, Brick Township had 35,057 residents.

The petitioner states that Ocean County is located on the Jersey Shore, approximately 50 miles south of New York City and 50 miles east of Philadelphia, Pennsylvania. Ocean County encompasses nearly 640 square miles. The petitioner states that its location on the Atlantic Ocean makes Ocean County one of the premier tourist destinations in the United States.

The petitioner states that Oyster Creek Nuclear Generating Station, which is located in Lacey Township, became operational in 1969. In 1970, one year after Oyster Creek began producing electricity, Ocean County, New Jersey had 208,470 residents. The petitioner also states that according to the 2000 Census, Ocean County today has 510,916 residents, a growth of over 245 percent.

Background

The petitioner submitted two letters dated July 7, 2005, and July 13, 2005, respectively. These letters are being treated as one petition. The petitioner also included letters from the New Jersey Chapter of the Sierra Club and the New Jersey Environmental Federation in support of the petition.

The petitioner states that there have been numerous incidents that have occurred since Oyster Creek began operating that have raised concerns among many people about using nuclear power to generate energy, particularly in densely populated areas. The petitioner states that the near catastrophe at Three Mile Island, the realized catastrophe at Chernobyl, the controversy about Yucca Mountain and the terrorist attacks of September 11, 2001, have raised concerns about the safety and security of nuclear power plants.

The petitioner believes that the evacuation of the communities surrounding Oyster Creek is of particular concern and requires extensive review and consideration. The petitioner states that traffic congestion is a growing concern in Ocean County as the infrastructure has not kept up with the population growth. Any large scale evacuation would likely be fraught with difficulties that would endanger lives.

The Proposed Amendment

The petitioner requests that the NRC amend its regulations to provide that a renewed license will be issued only if the plant operator demonstrates that the plant meets all criteria and requirements that would be applicable if the plant was being proposed *de novo* for initial construction. The petitioner also requests that § 54.29 be amended to provide that a renewed license may be issued by the Commission if the Commission finds that, upon a *de novo* review, the plant would be entitled to an initial operating license in accordance with all criteria applicable to initial operating licenses, as set out in the Commission's regulations, including 10 CFR Parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 71, 100, and the appendices to these regulations. The petitioner requests that corresponding amendments be made to §§ 54.4, 54.19, 54.21, and 54.23, and that § 54.30 be rescinded. The petitioner states that the criteria to be examined as part of a renewal application should include such factors as demographics, siting, emergency evacuation, site security, etc. The petitioner believes that this analysis should be performed in a manner that focuses the NRC's attention on the critical plant-specific factors and conditions that have the greatest potential to affect public safety.

Problems with the Current Process

The petitioner believes that the process and criteria currently established in Part 54 is seriously flawed. The petitioner states that the process for license renewal appears to be based on the theory that if the plant was originally licensed at the site, it is satisfactory to renew the license, barring any significant issues having to do with passive systems, structures, and components (SSCs). The petitioner states that the regulations for license renewal should be broadened and sufficiently comprehensive to cover all of the facets (including consideration of a worst-case scenario) that were considered for initial construction. Alternatively, the petitioner

states that the license renewal process should examine all issues related to the plant and its original license, and then concentrate on any issues that are new to that plant or have changed since the original license was issued or that deviate from the original licensing basis.

Key Renewal Issues

The petitioner states that as Oyster Creek approaches the end of its 40 year operating license, it is necessary to answer important questions about the plant. The petitioner states that these questions are specific to the Oyster Creek plant and those who live near the plant deserve to have these questions reviewed. These questions include the following:

- Could a new plant, designed and built to current standards, be licensed on the same site today? With the growth of Ocean County, which continues today, it is not certain that a nuclear plant would be permitted there today.
- The design of Oyster Creek's reactor has been prohibited for nearly four decades. Does that reactor conform to today's standards? Would Oyster Creek receive a license today with that reactor?
- In light of the terrorist attacks of September 11, 2001, would Oyster Creek's storage system, which is located close to Route 9, be acceptable today?
- Is the evacuation plan realistic in today's Ocean County? Would the tremendous growth of Ocean County over the past four decades, and the failure of Ocean County's infrastructure to keep pace with this growth, inhibit Oyster Creek's likelihood of receiving an operating license?

- Would a license be permitted in light of the public opposition to the plant? To date, 21 municipalities in Ocean County, as well as Congressmen Smith, Saxton and Pallone, New Jersey Department of Environmental Protection Commissioner Bradley Commissioner, and the Ocean County Board of Chosen Freeholders, have expressed either their concern for a thorough review and/or their opposition to the re-licensing.
- In recent weeks, two studies released by the National Academy of Sciences have raised serious concerns about nuclear plant security and the health effects of low-level radiation upon people who reside near nuclear plants. Should these two scientific studies and other relevant scientific data regarding human health and anti-terrorism be taken into account when considering Oyster Creek's license renewal application?

Conclusion

The petitioner states that many key factors that affect nuclear plant licensing evolve over time: population grows, local/state Federal regulations evolve, public awareness increases, technology improves, and plant economic values change. The petitioner believes that all of these factors should be examined and weighed in the formal 10 CFR Part 54 relicensing process. Accordingly, the petitioner requests that the NRC amend its regulations related to license renewal as described previously in the section titled, "The Proposed Amendment."

Dated at Rockville, Maryland, this 8th day of September, 2005.

For the Nuclear Regulatory Commission.

/RA/

Annette Vietti-Cook,
Secretary of the Commission.