

U.S. NUCLEAR REGULATORY COMMISSION

Docket No. 50-271

VERMONT YANKEE NUCLEAR POWER CORPORATION

VERMONT YANKEE NUCLEAR POWER STATION

RECEIPT OF PETITION FOR DIRECTOR'S DECISION UNDER 10 CFR 2.206

Notice is hereby given that on December 6, 1996, the Citizens Awareness Network, Inc. (CAN or Petitioner) filed a Petition pursuant to 10 CFR 2.206 with the Secretary of the U.S. Nuclear Regulatory Commission (NRC) requesting evaluation of certain documents relating to the Vermont Yankee Nuclear Power Station operated by the Vermont Yankee Nuclear Power Corporation (Licensee) to determine whether enforcement action was warranted.

The first document included in the Petition is a CAN memorandum dated December 5, 1996, that reviews information presented by the Licensee at an enforcement conference held on July 23, 1996, involving the Vermont Yankee residual heat removal system minimum flow valves. CAN raises a concern that the corrective action taken by the Licensee in opening these valves may have introduced an unreviewed safety question with regard to containment isolation.

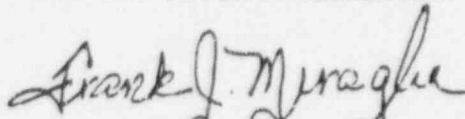
The second document included in the Petition is a CAN memorandum dated December 6, 1996, that reviews certain licensee event reports (LERs) submitted by the Licensee in the latter part of 1996. A variety of issues are discussed including fire protection, tornado protection, thermal protection for piping lines, equipment operability, and equipment testing. On the basis of its analysis of the LERs, CAN reaches certain conclusions regarding the performance of the Licensee and actions that should be taken.

On the basis of these documents, CAN requests that the NRC determine whether enforcement action is warranted pursuant to 10 CFR 2.205.

The issues in the Petition are being treated pursuant to 10 CFR 2.206 of the Commission's regulations. As provided by 10 CFR 2.206, appropriate action with regard to these issues will be taken within a reasonable time. By letter dated February 12, 1997 the Acting Director acknowledged receipt of the Petition.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, N.W., Washington, D.C. 20555-0001, and at the local public document room located at Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

FOR THE NUCLEAR REGULATORY COMMISSION



Frank J. Miraglia, Acting Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,
this 12th day of Feb. 1997.



PUBLIC PETITION PROCESS

10 CFR 2.206



9601296130 1/1

Introduction

The U.S. Nuclear Regulatory Commission (NRC) was established in 1975 to protect public health and safety in the civilian use of nuclear power and materials in the United States. As part of its responsibilities, NRC is interested in assessing all potential health and safety issues related to licensed activities and encourages members of the public to bring serious issues to its attention.

Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206) describes the petition process—the primary mechanism for the public to request enforcement action by NRC in a public process.* This process permits anyone to petition NRC to take enforcement 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. Requests that raise health and safety issues without requesting enforcement action are reviewed by means other than the 2.206 process.

In 1993, NRC reassessed the 2.206 petition process to determine whether it was effective, understandable, and credible. As part of its reassessment, the agency held a public workshop and obtained extensive comments from citizens' groups, the nuclear industry, former petitioners, and State and local governments. As a result, NRC made improvements to the 2.206 process to increase opportunities for meaningful public participation and to improve communications between the petitioner and NRC.

These improvements include—

*The NRC also has an allegation process in which individuals who raise potential safety concerns for NRC review are afforded a degree of protection of their identity. Specific guidance on the allegation process is contained in NRC Management Directive 8.8, "Management of Allegations," and described in a separate pamphlet available from the Office of Public Affairs. Other processes for public involvement are listed at the end of this pamphlet.

- Offering, under certain circumstances, an informal public hearing to a petitioner.
- Providing copies of all pertinent correspondence to all participants involved in a petition issue.
- Identifying a single agency contact for each petition.
- Keeping the petitioner informed of the status within every 60 days.
- Establishing an electronic bulletin board to provide the status of all pending petitions to the public.

The Petition Process

The 2.206 process provides a simple, effective mechanism for anyone to request enforcement action and obtain NRC's prompt, thorough, and objective evaluation of underlying safety issues. It is separate and distinct from the processes for rulemaking and licensing, although they too allow the public to raise safety concerns to NRC.

Under the 2.206 process, the petitioner submits a request in writing to NRC's Executive Director for Operations, identifying the affected licensee or licensed activity, the requested enforcement action to be taken, and the facts the petitioner believes provide sufficient grounds for NRC to take enforcement action. Unsupported assertions of "safety problems," general opposition to nuclear power, or identification of safety issues without seeking enforcement action are not considered sufficient grounds for consideration as a 2.206 petition.

After receiving a request, NRC determines whether (1) the request qualifies as a 2.206 petition, (2) an investigation of potential wrongdoing is appropriate, and (3) an informal public hearing is warranted. The NRC sends an acknowledgment letter to the petitioner and a copy to the licensee. If the request is accepted for review as a 2.206 petition, NRC publishes a notice in the *Federal Register*. If the request is not accepted, NRC notifies the petitioner of its decision.

and indicates that the petitioner's underlying safety concerns will be considered outside the 2.206 process.

On the basis of an evaluation of the petition, the appropriate office director issues a decision and, if warranted, NRC takes appropriate enforcement action. Throughout the evaluation process, NRC sends copies of all pertinent correspondence to the petitioner and the affected licensee. In most cases, NRC places correspondence in the Public Document Room (PDR) in Washington, D. C., as well as the appropriate Local Public Document Room (LPDR) near the affected facility. However, the agency withholds information that would compromise an investigation or ongoing enforcement action relating to issues in the petition. The NRC also sends the petitioner other information such as pertinent generic letters and bulletins.

The NRC notifies the petitioner of the petition's status every 60 days, or more frequently if a significant action occurs. Monthly updates on all pending 2.206 petitions are available in the PDR and on an electronic bulletin board, which is available to the public through the Internet.

Informal Public Hearing

An informal public hearing serves not only as a source of potentially valuable information for NRC to evaluate a 2.206 petition, but also affords the petitioner substantive involvement in the review and decision-making process through direct discussions with NRC and the licensee. An informal public hearing is offered only if the petition meets certain requirements; it is not offered automatically or solely at the petitioner's request. Note that an informal public hearing can be offered at any time during NRC's review of a petition.

To qualify for an informal public hearing, the petition must present new information that raises a significant safety issue or alleges violation of NRC requirements. Information is considered "new" if it presents

a significant safety issue not previously evaluated or provides a new approach or information on a significant safety issue previously evaluated by NRC. No informal public hearing is offered if the petition involves sensitive information such as safeguards, facility security, proprietary, or confidential commercial information. The NRC publishes a notice in the *Federal Register* 30 days in advance of each informal public hearing.

The informal public hearing is usually held near the affected facility or, if the petition raises generic issues covering facilities nationwide, in the Washington, D.C., area. To the extent practicable, the informal public hearing is scheduled during the evening hours and should last no longer than three hours. The NRC does not offer any preliminary decisions during the informal public hearing. Although not adjudicatory in nature, the informal public hearing is transcribed, and the text is made public shortly afterwards.

Director's Decision

The NRC's official response to a 2.206 petition is a written director's decision that addresses the concerns raised in the petition. The agency's goal is to issue a decision within 120 days from the date of the acknowledgment letter. However, additional time may be needed to conduct an investigation, hold an informal public hearing, complete an inspection, or analyze particularly complex technical issues. If the goal is not met, the NRC staff will promptly inform the petitioner of a schedule change.

The director's decision includes the professional staff's evaluation of all pertinent information from the petition, correspondence with the petitioner and the licensee, information from any informal public hearing, results of any investigation or inspection, and any other documents related to petition issues. The director's decision is provided to the petitioner and the licensee and is published in the *Federal Register*.

Director's decisions may be issued as follows:

A decision granting a petition, in full, explains the basis for the decision and grants the action requested in the petition (e.g., NRC issuing an order to modify, suspend, or revoke a license).

A decision denying a petition, in full, provides the reason for the denial and discusses all matters raised in the petition.

A partial director's decision may be issued when—

- The NRC decides not to grant the enforcement action requested in the petition but takes other appropriate enforcement action (e.g., requesting facility or procedural modifications) to resolve the identified safety concerns, thus partially denying the petition; or
- Some of the issues associated with the petition can be completed and significant schedule delays are anticipated before resolution of the entire petition.

The Commission will not entertain requests for review of a director's decision. However, on its own, it may review a decision within 25 calendar days. Afterwards, NRC writes to the petitioner indicating whether the Commission has reviewed the decision and sends copies to the licensee and PDR.

NRC Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," contains more detailed information on citizen petitions. For a free copy of the directive, write to the Superintendent of Documents, U. S. Government Printing Office, P. O. Box 37082, Washington, DC 20013-7082, or call 202-512-1800.

Electronic Access to Petitions

The NRC's electronic bulletin board on 2.206 petitions may be accessed, using a personal computer

(PC) and a modem, by calling 1-800-303-9672 (communication parameters 8-N-1-F). The FedWorld bulletin board can be accessed via the Internet:

Telnet Access = fedworld.gov (192.239.93.3)

FTP Site Access = ftp.fedworld.gov
(192.239.92.205)

WWW

(Home Page) = <http://www.fedworld.gov>

Files on public petitions can be found in the NRC-PUB library that can be selected from any FedWorld file system. There are PCs located at the main PDR and several LPDRs which are available to the public. Call 202-634-3273 for information about PC access at the PDR and call 1-800-638-8081 for the LPDRs.

Other Processes for Public Involvement

In addition to the 2.206 petition process, NRC has several other ways that permit the public to express concerns on matters related to the NRC's regulatory activities.

- The NRC's *allegation process* affords individuals who raise safety concerns a degree of protection of their identity.
- Under the provisions of 10 CFR 2.802, NRC provides an opportunity for the public to petition the agency regarding its *rulemaking* activities.
- The NRC's *licensing process* offers members of the public, who are specifically affected by a licensing action, to formally participate in licensing proceedings. This process applies not only to the initial licensing actions but also to license amendments and other activities such as decommissioning and license renewals.
- For major regulatory actions involving preparation of environmental impact statements, NRC offers separate opportunities for public participation in its *environmental proceedings*.

- The public can attend a number of *meetings* including open enforcement conferences, periodic media briefings by Regional Administrators, and special meetings held near the affected facilities to inform local communities and respond to their questions.

More information on these activities can be found in NRC's pamphlet entitled, "Public Involvement in the Nuclear Regulatory Process."

Office of Public Affairs
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Telephone 301-415-8200 or
1-800-368-5642

NUREG/BR-0200, Rev. 1

December 1995

ACTION

EDO Principal Correspondence Control

2-7

FROM:

DUE: 01/19/97

EDO CONTROL: G960950

DOC DT: 12/06/96

FINAL REPLY:

Jonathan Block
Attorney for Citizens Awareness Network, Inc.

TO:

Office of Secretary

FOR SIGNATURE OF :

** CRN **

CRC NO: 96-1232

DESC:

2.206 PETITION REQUESTING ENFORCEMENT ACTION
CONCERNING VERMONT YANKEE

ROUTING:

Taylor
Milhoan
Thompson
Blaha
Miraglia, NRR
Lieberman, OE
Miller, RI

DATE: 12/17/96

ASSIGNED TO:

CONTACT:

OGC

Cyr

SPECIAL INSTRUCTIONS OR REMARKS:

NRR RECEIVED:

JANUARY 16, 1997

NRR ACTION:

DRPE:VARGA

NRR ROUTING:

MIRAGLIA
THADANI
ZIMMERMAN
SHERO
TRAVERS
MARTIN
J. KENNEDY
BOHRER

ACTION

DUE TO NRR DIRECTOR'S OFFICE

BY

Feb. 4, '97

NEW

CONTROLLED CORRESPONDENCE FROM:

Jonathan Block,
Atty. for Citizens
Awareness Network.

Milano/Rooney

EDO #:

G960950

PLANT:

VERMONT YANKEE

SUBJECT:

2.206. REQUESTING ENFORCEMENT ACTION RE INFORMATION IN
ATTACHED DOCUMENTS.

DATE REFERRED TO NRR:

January 16, 1997, as 2.206
[Received earlier on 12/18 as reg. ticket]

DATE DUE TO EDO:

Feb. 7, 1997. (acknowledgement letter).
Feb. 4 to NRR Mailroom.

FOR SIGNATURE OF:

ISSUES RAISED:

WEEKLY MEETINGS AND CURRENT STATUS:

CONTACTS:

NRR:

OGC: