

the NRC for January 30, April 15, and August 24, 2007. The Petitioner requested that (1) the Indian Point facilities be shut down until such time as the new emergency siren system with backup electrical power is fully operational and has met all Federal Emergency Management Agency (FEMA) and NRC requirements and (2) Entergy be fined \$130,000 per day from the date of his petition until Entergy complies with the NRC's Confirmatory Order dated January 31, 2006.

As the basis for the January 24, 2008, request that amended the original petition, the Petitioner cited Entergy's lack of adequate maintenance and aging management procedures leading to the discovery of significant corrosion on components of the new emergency siren system. The Petitioner requested that (1) the Indian Point facilities be shut down, (2) the operating licenses for the Indian Point facilities be suspended until they are in full compliance with their design basis threat, current licensing basis, and all NRC rules and regulations, and (3) Entergy be fined \$500,000 per day until the new siren system has been fully approved by all levels of government.

As the basis for the March 30, 2008, request, the Petitioner citing numerous discharges of radiological and chemical carcinogens, both legal and illegal, over an extended period of time that continue to expose the Petitioner, his family, and pets to contaminants. The Petitioner again requested that the Indian Point facilities be shut down and remain shut down until a large number of actions are completed including implementation of the new emergency siren system that has received all government approvals.

On December 21, 2007, and August 14, 2008, the Petitioner and the licensee met with the staff's Petition Review Board. The meetings gave the Petitioner and the licensee an opportunity to provide additional information and to clarify issues cited in the petition.

The NRC sent a copy of the proposed Director's Decision to the Petitioner and to Entergy for comment on March 23, 2009. The staff did not receive any comments on the proposed Director's Decision.

The Director of the Office of Nuclear Reactor Regulation denied the Petitioner's request to suspend the operating licenses of the Indian Point Nuclear Generating Unit Nos. 2 and 3 and the Petitioner's request to impose daily civil penalties for the untimely implementation of the new siren system. In addition, the Petitioner's request to place Indian Point Unit Nos. 2 and 3 in cold shutdown, and to suspend the licenses of Indian Point

Unit Nos. 2 and 3 until the licensee comes into full compliance with the design basis threat, the current licensing basis and all NRC rules, because of corrosion in siren components, was also denied. The reasons for this decision are explained in the Director's Decision pursuant to Title 10 of Code of Federal Regulations (10 CFR) Section 2.206 [DD-09-01], the complete text of which is available in Agencywide documents Access and Management System (ADAMS) Accession No. ML091210629 for inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on the NRC's Web site, <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room).

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 29th day of May 2009.

For the Nuclear Regulatory Commission.

**Eric J. Leeds,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. E9-13297 Filed 6-5-09; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2008-0497]**

### **NRC Enforcement Policy Revision**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability of revised draft supplements and request for comments.

**SUMMARY:** On September 15, 2008 (73 FR 53286), the Nuclear Regulatory Commission (NRC) published a notice of availability and request for comments on its draft proposed revised Enforcement Policy (Enforcement Policy). A corrected proposed revised Enforcement Policy was published on October 16, 2008 (73 FR 61442). The public comment period for the revised Enforcement Policy ended on November 14, 2008. The NRC is now soliciting

written comments from interested parties including public interest groups, States, members of the public and the regulated industry (*i.e.*, reactor and materials licensees, vendors, and contractors), on additional proposed revisions to Section 6.0, Supplements-Violation Examples, of the proposed revised Enforcement Policy. This Notice of Availability and request for comments apply only to new proposed revisions to Section 6.0 of the proposed revised Enforcement Policy.

**DATES:** Submit comments on or before July 8, 2009. 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:** Comments will be made available to the public in their entirety; personal information, such as your name, address, telephone number, e-mail address, etc. will not be removed from your submission. You may submit comments by any one of the following methods:

*Federal e-Rulemaking Portal:* <http://www.regulations.gov>; search on docket ID: NRC-2008-0497.

*Mail Comments to:* Michael T. Lesar, Chief, Rulemaking and Directives Branch, Mail Stop: TWB-05-B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

You can access publicly available documents related to this notice using the following methods:

*Federal e-Rulemaking Portal:* Documents related to this notice, including public comments, are accessible at <http://www.regulations.gov>, by searching on docket ID: NRC-2008-0497.

*NRC's Public Document Room (PDR):* The public may examine and have copied for a fee, publicly available documents at the NRC's PDR, Public File Area O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

*NRC's Agencywide Document Access and Management System (ADAMS):* The revised draft Supplements of the proposed revised Enforcement Policy are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS Accession Number (ML091520156). From this site, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. In addition, revised draft Supplements of the proposed revised Enforcement

Policy will be available at <http://www.nrc.gov/about-nrc/regulatory/enforcement/public-involvement.html>. If you do not have Internet access 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 e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:**

Doug Starkey, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555;  
[Doug.Starkey@nrc.gov](mailto:Doug.Starkey@nrc.gov), 301-415-3456.

**SUPPLEMENTARY INFORMATION:**

**Background**

As discussed in the **SUPPLEMENTARY INFORMATION** of the September 15, 2008 document (73 FR 53286), the NRC, in developing the proposed revised Enforcement Policy, in many instances reworded, deleted, or moved (*i.e.*, moved to the NRC Enforcement Manual, an NRC staff guidance document) some of the information in the current Enforcement Policy. (See the table at ML083050133 for a listing of subject matter in the current Enforcement Policy which was not carried over into the proposed revised Enforcement Policy.) For example, Section 6.0, Supplements-Violation Examples, of the proposed revised Enforcement Policy was significantly reorganized, reworded, and contained much less detail than the supplements in the current Enforcement Policy. In addition, the NRC had also planned to add detailed violation examples to the Enforcement Manual to serve as further guidance to NRC inspectors. However, based on public comments received in response to the September and October 2008 publications of the proposed revised Enforcement Policy, the NRC has reconsidered its original plan to have abbreviated violation examples in the revised Enforcement Policy and detailed violation examples in the Enforcement Manual. The NRC now proposes to continue its past practice of providing violation example supplements in the Enforcement Policy. These revised supplements are intended to cover, in more detail than originally planned, a broad range of circumstances in each of the four severity levels in each of 14 activity areas. It should be noted that the supplements in Section 6.0 of the proposed revised Enforcement Policy are not intended to address every possible circumstance and are therefore neither exhaustive nor controlling.

Because the revised violation supplements that are being proposed for the revised Enforcement Policy have, in some instances, been changed

significantly from those previously published, the NRC is providing an opportunity for public comments on the proposed revised supplements.

The NRC maintains the Enforcement Policy on its Web site at <http://www.nrc.gov>; select Public Meetings and Involvement, Enforcement, and then Enforcement Policy.

*Procedural Requirements:*

**Paperwork Reduction Act**

This policy statement does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), approval number 3150-0136.

**Public Protection Notification**

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

**Congressional Review Act**

In accordance with the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs.

For the Nuclear Regulatory Commission.

Dated at Rockville, MD, this 1st day of June 2009.

**Cynthia A. Carpenter,**

*Director, Office of Enforcement.*

[FR Doc. E9-13298 Filed 6-5-09; 8:45 am]

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**NUCLEAR REGULATORY COMMISSION**

[NRC-2009-0208]

**Report to Congress on Abnormal Occurrences; Fiscal Year 2008; Dissemination of Information**

Section 208 of the Energy Reorganization Act of 1974 (Pub. L. 93-438) defines an abnormal occurrence (AO) as an unscheduled incident or event which the U.S. Nuclear Regulatory Commission (NRC) determines to be significant from the standpoint of public health or safety. The Federal Reports Elimination and Sunset Act of 1995 (Pub. L. 104-68) requires that AOs be reported to Congress annually. During Fiscal Year 2008, ten events that occurred at facilities licensed or otherwise regulated

by the NRC and/or Agreement States were determined to be AOs. The report describes five events at NRC-licensed facilities. The first NRC-licensee event involved radiation exposure to an embryo/fetus. The other four NRC-licensee events were medical events, as defined in Title 10, Part 35, of the *Code of Federal Regulations* (10 CFR Part 35). All five NRC-licensee events occurred at medical institutions. The report also describes five events at Agreement State-licensed facilities. [Agreement States are those States that have entered into formal agreements with the NRC pursuant to Section 274 of the Atomic Energy Act (AEA) to regulate certain quantities of AEA licensed material at facilities located within their borders.] Currently, there are 35 Agreement States. The first Agreement State-licensed event involved radiation exposure to an embryo/fetus. The other four Agreement State-licensed events were medical events, as defined in 10 CFR Part 35, and occurred at medical institutions. As required by Section 208, the discussion for each event includes the date and place, nature and probable consequences, the cause or causes, and the actions taken to prevent recurrence. Each event is also being described in NUREG-0090, Vol. 31, "Report to Congress on Abnormal Occurrences: Fiscal Year 2008." This report is available electronically at the NRC Web site <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/>.

There are three major categories of events reported in this document: I. For All Licensees, II. For Commercial Nuclear Power Plant Licensees, and III. Events at Facilities Other Than Nuclear Power Plants and all Transportation Events. The full report, available on the NRC Web site, provides the specific criteria for determining when an event is an abnormal occurrence (AO) and discusses "Other Events of Interest" that do not meet the AO criteria but which the Commission has determined should be included in the report. The event identification number begins with "AS" for Agreement State AO events and "NRC" for NRC AO events.

**I. For All Licensees**

*Human Exposure to Radiation From Licensed Material*

During this reporting period, one event at an NRC-licensed facility and one event at an Agreement State-licensed facility were significant enough to be reported as abnormal occurrences (AOs).