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Signed at Washington, DC this 21st day of November, 2001.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 01-29547 Filed 11-29-01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-247, License No. DPR-26]

Entergy Nuclear IP2, Entergy Nuclear Operations, Inc.; Notice of Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has taken action on the April 24, 2001, petition under section 2.206 Title 10 of the Code of Federal Regulations (10 CFR 2.206) submitted by Mr. David A. Lochbaum (petitioner) on behalf of the Union of Concerned Scientists. The petition was supplemented by letter dated May 3, 2001. The petitioner requested that the Nuclear Regulatory Commission (NRC) issue a Demand for Information (DFI) to licensees that use security personnel supplied by Wackenhut Corporation (Wackenhut), requiring them to provide a docketed response explaining how they comply with the requirement of 10 CFR 26.10 that licensees "provide reasonable measures for the early detection of persons who are not fit to perform activities within the scope of this part" and the requirement of 10 CFR 26.20 that "licensee policy should also address other factors that could affect fitness for duty [FFD] such as mental stress, fatigue and illness."

The petitioner also requested that the DFI require each licensee to generally describe its policy for the aforementioned factors and to explicitly describe its policy for these factors as applied to the security personnel supplied by Wackenhut.

As a basis for this request, the petitioner stated that:

An individual employed by Wackenhut Corporation and assigned duties as a security officer at Indian Nuclear 2 was fired on June 26, 2000 * * *. The individual had worked five straight 12-hour shifts [(12 hours on shift followed by 12 hours off for 5 straight days)] and declined to report for a sixth straight 12-hour shift because he reported to his management—in writing—that it would be "physically and mentally exhausting." The individual reported to his management—in writing—that he was fully aware of his condition and "would not want to be negligent in performing [his] duties as a security officer."

The security officer had unescorted access to Indian Point 2 and thus was covered by 10 CFR part 26 as specified in Section 26.2 * * *.

The petitioner also pointed out that Wackenhut employees are required by terms of their employment application, Collective Bargaining Agreement, and the Security Officer Handbook to report to work when directed.

Thus, the petitioner contends that a worker employed by Wackenhut at an NRC-licensed facility reported to his management that he felt not fit for duty, declined to report for mandated overtime, and was terminated.

The petitioner also stated that "10 CFR 26.20 requires all licensees to have formal policy and written procedures for factors that could render plant workers not fit for duty. Fatigue is specifically mentioned in 10 CFR 26.20." The petitioner contends that the Wackenhut's contractual right conflicts with the Federal regulations in 10 CFR 26.10(a) and (b) and that in this case, the individual essentially provided "reasonable measures for early detection" of a condition rendering him not fit to perform activities within the scope of part 26. The petitioner further stated that rather than respecting the individual's judgment or seeking another opinion by a Medical Review Officer or other health care professional, Wackenhut fired that individual.

The petitioner addressed the Petition Review Board (PRB) on May 7, 2001, in a telephone conference call to clarify the bases for his Petition. The transcript of this conference call is available in NRC's Agencywide Documents Access and Management System (ADAMS) (Accession No. ML012150128) and may be electronically viewed at the Commission's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The NRC sent a copy of the proposed Director's Decision to the petitioner by letter dated September 28, 2001. The petitioner responded with comments by letter dated October 2, 2001. The comments and the staff response to

them are enclosures to the Director's Decision.

The Director of the Office of Nuclear Reactor Regulation has decided to grant the petitioner's request to the extent that the NRC will address the petitioner's concerns through the generic communication process. Specifically, the staff is developing a communication to all nuclear power plant licensees subject to the requirements of part 26. The communication will highlight the concerns identified in the petition and articulate the NRC's requirements as they apply to matters involving a worker's self-declaration of FFD. The staff intends to issue the communication in the near future. Further, as the staff proceeds with proposals to revise Part 26 and address worker fatigue through rulemaking, it will consider the need to clarify the NRC's expectations concerning worker declarations of FFD and work scheduling. The reasons for this decision are explained in the Director's Decision pursuant to 10 CFR 2.206 (DD-01-05), the complete text of which is available in ADAMS for electronic viewing at the Commission's Public Document Room (PDR), at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The text is also accessible through the ADAMS Public Library on the NRC's Web site, <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room) at Accession No. ML013230169. If you do not have access to ADAMS or have problems in accessing the documents in ADAMS, contact the NRC Public Document Room reference staff at 1-800-397-4209 or 301-415-4737 or by e-mail to pdr@nrc.gov.

A copy of the Director's Decision will be filed with the Secretary of the Commission so that the Commission may review it in accordance with 10 CFR 2.206(c) 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 decision within that time.

Dated at Rockville, Maryland, this 23rd day of November, 2001.

For the Nuclear Regulatory Commission.

R. William Borchardt,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01-29781 Filed 11-29-01; 8:45 am]

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