

December 11, 2002

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Brian W. Sheron, Associate Director **/RA JZwolinski for/**
for Project Licensing and Technical Analysis
Office of Nuclear Reactor Regulation

SUBJECT: NOVEMBER 2002 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER 10 CFR 2.206

The attached report gives the status of petitions submitted under 10 CFR 2.206. As of November 30, 2002, there were two open petitions, which were accepted for review under the 2.206 process. Both are assigned to the Office of Nuclear Material Safety and Safeguards. Five final Director's Decisions (DDs) were issued this month. In addition, five letters were submitted to the NRC as petitions under 2.206. The staff is reviewing those petitions to determine if they meet the criteria to be reviewed under 2.206.

Attachment 1 provides a detailed status of the open petitions.

Attachment 2 provides a summary of incoming letters that the staff is still reviewing to determine if they meet the criteria.

Attachment 3 shows the age statistics for the open 2.206 petitions as of November 30, 2002.

Attachment 4 shows the age trend of closed petitions for the last 3 years. No proposed DDs were issued in November 2002. Therefore, there is no data available to measure our progress against the goal of issuing a proposed DD within 120 days of the acknowledgment letter.

This report and recently issued DDs are placed in the Agencywide Documents Access and Management System. In making these readily accessible to the public, the staff has identified another vehicle to address one of our performance goals, i.e., to enhance public confidence.

Attachments: As stated

CONTACT: Donna Skay, NRR
415-1322

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Accession No.:ML023400233

*See previous concurrence

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Report on Status of Public Petitions Under 10 CFR 2.206
November 30, 2002
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Attachment 1

Report on Status of Public Petitions Under 10 CFR 2.206

Facilities: Salem Nuclear Generating Station, Unit Nos. 1 and 2
Hope Creek Generating Station
Oyster Creek Nuclear Generating Station

Petitioner: Norm Cohen, Unplug Salem Campaign

Date of Petition: 9/17/2001

Director's Decision To Be Issued by: NRR

Date Referred to Review Organization: 9/19/2001

EDO Number: G20010389

Proposed DD issuance: May 16, 2002

Completion Date: ~~9/24/02~~ 11/01/02 complete

Last Contact with Petitioners: 11/01/02

Petition Manager: R. Fretz

Case Attorney: J. Goldberg

Issues/Action Requested:

The petitioner requested that the U.S. Nuclear Regulatory Commission (NRC) order either the closure of, or an immediate security upgrade at, the Salem Nuclear Generating Station, Unit Nos. 1 and 2, Hope Creek Generating Station, and Oyster Creek Nuclear Generating Station. In addition, the petitioner requested that: (1) the plants' defenses be upgraded to withstand a jet crash similar to that which occurred at the World Trade Center (WTC) on September 11, 2001; (2) all the spent fuel pools be brought into the containment buildings until a new jet bomber-proofed containment is built for them; (3) the NRC triple the number of Operational Safeguards Response Evaluation (OSRE) security inspections; and (4) the NRC cancel proposals to allow nuclear power plants to conduct their own security inspections.

Background:

The events of September 11, 2001, were cited as the basis for the request, with the petitioner stating that the four New Jersey nuclear power plants are vulnerable to terrorist threats, including a suicide airplane attack similar to that experienced at the WTC.

Two closed Petition Review Board (PRB) meetings were conducted on November 19, 2001, and November 29, 2001, to consider the merits of the requested actions. The PRB concluded that the petition met the threshold for processing under 10 CFR 2.206, and that the details provided in the petitioner's request were found sufficient to warrant further inquiry (Part III of Management Directive (MD) 8.11). An acknowledgment letter and a single *Federal Register* notice common to this and two other similar petitions (see pages 4 and 6) were issued on December 20, 2001.

The petitioner was contacted on December 7, 2001, and was informed that the NRC had advised all NRC licensees, after the September 11, 2001, terrorist attack on the WTC, to go to the highest level of alert, which they promptly did. Since there were no credible threats, there was no need to order the plants to shut down. However, the petitioner's immediate action requests were, in effect, partially granted in that the NRC had taken actions in response to the September 11, 2001, event by issuing many safeguards and threat advisories to the industry. The petitioner was informed that the NRC will follow the 10 CFR 2.206 petition process as explained in MD 8.11 to the extent possible without compromising sensitive information.

The petitioner was contacted again on January 9, 2002, and informed of the progress on this

petition and the scheduled completion date of April 30, 2002. Orders were sent to all licensees on February 25, 2002, to formalize the heightened security measures and to require certain additional enhancements. A PRB meeting was held on February 28, 2002, to determine the staff actions on this petition in light of the Orders. The PRB recommended that the petition managers issue separate Director's Decisions (DDs) for each of the security-related petitions discussed on pages 2, 4, and 6 rather than one combined DD.

The petitioner was contacted on March 7, 2002, and informed of the status of the staff's review. On March 18, 2002, the PRB met with representatives of the Reactor Safeguards, Radiation Safety, and Emergency Preparedness Branch of the Office of Nuclear Reactor Regulation (NRR), and the Office of the Executive Director for Operations to re-consider the policy of withholding security-related petitions from the public in light of new guidance on releasing documents. The PRB, with the agreement of NRR's Executive Team and representatives of the offices listed above, decided to make this petition, and the other security-related petitions, public.

The proposed DD was forwarded to the petitioner and licensees on May 16, 2002. The NRC staff requested comments by June 21, 2002. On June 5, 2002, Michael Kohn of the National Whistleblower Center requested that the comment period for a similar petition be extended to August 10, 2002. Since Mr. Kohn's comments might affect the UNPLUG Salem petition, the staff offered to grant a similar extension to Norm Cohen. Mr. Cohen accepted the staff's offer to extend the comment period to August 10, 2002. Comments were received on August 10, 2002.

Current Status:

The staff addressed the comments that were received and the final DD (DD-02-03) was issued on November 1, 2002.

The Commission partially granted the petition to the extent that many of the requests are included within the scope of Orders issued to all nuclear power plants on February 25, 2002, or are a part of the NRC staff's comprehensive review to evaluate the agency's security and safeguards programs. The remainder of the requests were denied.

Facility:	<u>All Operating Nuclear Power Plants (103) in the U. S.</u>
Petitioner(s):	Michael D. Kohn, National Whistleblower Center
Date of Petition and Supplement:	10/24/2001 and 1/16/2002
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	10/26/2001
EDO Number:	G20010485
Proposed DD issuance:	05/16/2002
Completion Date:	9/24/02 11/01/2002 complete
Last Contact with Petitioners:	11/01/02
Petition Manager:	G. Shukla/ D. Skay
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioner requested that the NRC take immediate short-term and long-term corrective actions to protect the public against the possibility of terrorists seizing control of a large commercial jetliner and crashing it into a nuclear power plant in the United States. The petitioner also requested that the NRC staff take certain specified compensatory measures to protect the public and the environment from the catastrophic impact of a terrorist attack on a nuclear power plant or a spent fuel pool.

Background:

As a basis for the above requests, the petitioner states that no commercial nuclear power plant located within the United States was designed to withstand the impact of a large commercial airliner. The petitioner cites the plants' inability to be protected against terrorist attacks, including a suicide airplane attack similar to the attack on the World Trade Center (WTC). The petitioner discusses NRC's failure to adequately assess risk of malevolent airborne attacks, failure to adequately assess the risk of terrorist attacks at spent fuel storage facilities, and failure to adequately protect nuclear power plants from terrorist attacks.

There are two other petitions with similar requests concerning the security of nuclear power plants in the U.S. subsequent to the terrorist attacks on the WTC on September 11, 2001. (See pages 2 and 6 for the current status of these petitions).

The petitioner was contacted on December 7 and 20, 2001, and informed of the staff's progress to date. The petitioner was informed that the NRC had advised all NRC licensees, after the September 11, 2001, terrorist attack on the WTC, to go to the highest level of alert, which they promptly did. Since there were no credible threats, there was no need to order the plants to shut down. However, the petitioner's immediate action requests were, in effect, partially granted in that the NRC had taken actions in response to the September 11, 2001, event by issuing many safeguards and threat advisories to the industry. Furthermore, Orders were sent to all licensees on February 25, 2002, to formalize the heightened security measures and to require certain additional enhancements. The petitioner was informed that the NRC will follow the 10 CFR 2.206 petition process as explained in Management Directive 8.11 to the extent possible without compromising sensitive information. An acknowledgment letter and a single *Federal Register* notice common to this and two other similar petitions (see pages 2 and 6) were issued on December 20, 2001. By letter dated January 16, 2002,

Winston & Strawn provided comments on the petition on behalf of several licensees, in

support of the NRC acknowledgment letter to Michael D. Kohn dated December 20, 2001. These comments were considered in preparing the proposed Director's Decision (DD).

A Petition Review Board (PRB) meeting was held on February 28, 2002, to determine the staff actions on this petition in light of the Orders. The PRB recommended that the petition managers issue separate DDs for each of the security-related petitions discussed on pages 2, 4, and 6 rather than one combined DD.

The petition manager contacted Michael Kohn on March 15, 2002, and informed him of the progress of his petition and issuance of Security Orders on February 25, 2002. On March 18, 2002, the PRB met with representatives of the Reactor Safeguards, Radiation Safety, and Emergency Preparedness Branch of the Office of Nuclear Reactor Regulation (NRR), and the Office of the Executive Director for Operations to re-consider the policy of withholding security-related petitions from the public in light of new guidance on releasing documents. The PRB, with the agreement of NRR's Executive Team and representatives of the offices listed above, decided to make this petition, and the other security-related petitions, public.

The proposed DD on the petition was issued on May 16, 2002. The NRC staff requested comments by June 21, 2002. The petitioner requested an extension of the comment period until August 10, 2002. Both the petitioner and the licensee were granted an extension until August 10, 2002. Comments were received on August 10.

Current Status:

The staff addressed the comments that were received and the final DD (DD-02-0) was issued on November 1, 2002.

The Commission partially granted the petition to the extent that many of the requests are included within the scope of Orders issued to all nuclear power plants on February 25, 2002, or are a part of the NRC staff's comprehensive review to evaluate the agency's security and safeguards programs. The remainder of the requests were denied.

Facility:	<u>Indian Point Units 2 and 3</u>
Petitioner(s):	Alex Matthiessen/Karl Coplan/Pace Environmental Litigation Clinic, Inc., Riverkeeper, Inc., et al.
Date of Petition:	11/8/2001, plus several supplements
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	11/9/2001
EDO Numbers:	G20010508, G20010556, G20010567, G20020034, G20020051, G20020064, G20020073, G20020085, G20020092, G20020095, G20020096, G20020097, G20020098, and G20020378
Proposed DD issuance:	05/16/2002
Final DD issued:	11/18/02 complete
Last Contact with Petitioners:	11/18/02
Petition Manager:	P. Milano
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioners request that: (1) the NRC issue an order to the Indian Point 2 and 3 licensee for a temporary shutdown to conduct a full review of vulnerabilities, security measures, and evacuation plans; (2) the NRC require the licensee to provide sufficient information about security for NRC to determine their ability to meet realistically expected threats and contemplate making the measures permanent; (3) the NRC mandate specifically listed measures to set up and protect a permanent no-fly zone and a defensive system to protect the "entire facility"; and (4) a revision be made to the emergency planning to include terrorists risks and multiple attacks on the infrastructure used in an evacuation. Finally, the petitioner requested that the NRC shut down the Indian Point facility permanently if security cannot be sufficiently ensured, and order the immediate conversion from spent fuel storage pools to a dry cask system.

Background:

As a basis for the above requests, the petitioners state that no commercial nuclear power plant located within the United States was designed to withstand the impact of a large commercial airliner. The petitioners cite the plant's inability to be protected against terrorist attacks, including a suicide airplane attack similar to the attack on the World Trade Center (WTC).

On November 21, 2001, the Village of Hastings-on-Hudson, New York, submitted its Board of Trustees' resolution calling for action very similar to that of the above petitioner and citing the same bases. The Village Clerk was contacted on December 27, 2001, to explain the petition process and discuss the existing petition. The Village Clerk asked to have this resolution treated as a supplement to the existing petition. A response letter was sent to Hastings-on-Hudson on January 29, 2002.

On November 26, 2001, the Village of Croton-on-Hudson, New York, in accordance with its Board of Trustees Resolution, requested that they too join the Riverkeeper, Inc., et al. as a co-petitioner. The PRB acceded to the request and recommended that they be included and acknowledged along with the rest of the petitioners. A response letter was sent on December 20, 2001.

Mr. Matthiessen was contacted on December 20 and 27, 2001, and informed of the staff's

progress to date. An acknowledgment letter and a single *Federal Register* notice common to this and the two other similar petitions (see pages 2 and 4) were issued on December 20, 2001. The petitioners were informed that the NRC had advised all NRC licensees, after the September 11, 2001, terrorist attacks, to go to the highest level of alert, which they promptly did. Since there were no credible threats, there was no need to order the plants to shut down. However, the petitioner's immediate action requests were, in effect, partially granted in that the NRC had taken actions in response to the September 11, 2001, event by issuing many safeguards and threat advisories to the industry. Furthermore, Orders were sent to all licensees on February 25, 2002, to formalize the heightened security measures and to require certain additional enhancements. The petitioners were informed that the NRC will follow the 10 CFR 2.206 petition process as explained in Management Directive 8.11 to the extent possible without compromising sensitive information.

The NRC received letters from the Town of Stony Point, dated December 12, 2001, and the Bedford Central School District, dated December 13, 2001. Also included as part of this petition are letters received from Nyack Public Schools, the Peace and Community Action Committee, the Village of Dobbsferry, the Town of Newcastle, and the Hastings-on-Hudson school district in February 2002. These letters make identical requests to the Riverkeeper petition and the petitions from the Villages of Hastings and Croton-on-Hudson. The staff will treat these as co-petitioners, and their letters as supplements to the petition.

Mr. Matthiessen was contacted on January 7, 2002. He requested a meeting with the Petition Review Board (PRB). The PRB decided at its meeting on January 24, 2002, that such a meeting was unnecessary because the petitioners did not indicate that they had additional information to provide to the staff. A PRB meeting was held on February 28, 2002, to determine the staff actions on this petition in light of the Orders. The PRB recommended that the petition managers issue separate Director's Decisions (DDs) for each of the security-related petitions discussed on pages 2, 4, and 6 rather than one combined DD.

A letter was sent to Mr. Matthiessen on March 13, 2002, informing him of the staff's decisions related to his requests for a meeting and specific documents, which he made in the January 7, 2002, phone call.

On March 18, 2002, the PRB met with representatives of the Reactor Safeguards, Radiation Safety, and Emergency Preparedness Branch of the Office of Nuclear Reactor Regulation (NRR), and the Office of the Executive Director for Operations to re-consider the policy of withholding security-related petitions from the public in light of new guidance on releasing documents. The PRB, with the agreement of NRR's Executive Team and representatives of the offices listed above, decided to make this petition, and the other security-related petitions, public.

The proposed DD was forwarded to the petitioner and licensees on May 16, 2002. The NRC staff requested comments by June 21, 2002. On June 5, 2002, Michael Kohn of the National Whistleblower Center requested that the comment period for a similar petition be extended to August 10, 2002. Since Mr. Kohn's comments might affect the UNPLUG Salem petition, the staff offered to grant a similar extension to Norm Cohen. Mr. Cohen accepted the staff's offer to extend the comment period to August 10, 2002.

On June 6, 2002, Brian M. O'Hare, a citizen from New York City, New York, submitted a petition calling for action very similar to that of the other co-petitioners and citing the same

bases. Mr. O'Hare called for the NRC to adopt the resolution in the Riverkeeper petition. The PRB met on June 27, 2002, and recommended that, since the requested enforcement actions and bases were similar, it met the threshold for processing under 10 CFR 2.206. The PRB decided that Mr. O'Hare will be added to the list of petitioners. The petition manager provided Mr. O'Hare with a copy of the proposed DD of May 16, 2002.

Comments were received on the proposed DD on August 10, 2002.

Current Status:

The staff addressed the comments that were received and the final DD (DD-02-06) was issued on November 18, 2002.

The Commission partially granted the petition to the extent that many of the requests are included within the scope of Orders issued to all nuclear power plants on February 25, 2002, or are a part of the NRC staff's comprehensive review to evaluate the agency's security and safeguards programs. The remainder of the requests were denied.

Utility	Carolina Power & Light (CP&L)/Progress Energy
Petitioner:	Jim Warren of North Carolina Waste Awareness and Reduction Network (NC WARN)
Date of Petition and supplement:	November 5, 2001, and February 12, 2002
Director's Decision to Be Issued by:	NMSS
Date Referred to Review Organization:	12/11/2001
EDO Number:	G200100461
Proposed DD issuance (completed):	8/29/2002
Final DD issuance:	10/29/02 11/12/02 completed
Last Contact with Petitioner:	5/30/2002 7/17/2002 8/29/02 11/12/02
Petition Manager:	David Pstrak
Case Attorney:	Jack Goldberg

Issues/Action Requested:

The petitioner requests that NRC require CP&L to halt rail shipments of spent nuclear fuel. The petitioner stated that the Department of Energy (DOE) suspended a shipment of fuel assemblies due to the threat of terrorist attacks on the shipment during transport. The petitioner believes the NRC should also require CP&L to suspend rail shipments of irradiated fuel indefinitely to ensure the safety of the citizens in North Carolina.

Background:

The petitioner states that DOE suspended a shipment of spent fuel assemblies following the terrorist attacks of September 11, 2001, because of the potential for a terrorist attack on the shipment. The petitioner requests that NRC require indefinite postponement of all spent fuel shipments within the CP&L system. The petitioner states that failure to do so would indicate a conflict between DOE and NRC positions on the safety of rail shipments of spent fuel.

The Petition Review Board (PRB) met on January 16, 2002, and agreed that the incoming petition meets the criteria to be considered under the 2.206 process. The PRB decided not to grant the part of the petition that requested immediate action to halt the rail shipments of spent fuel within the CP&L system. The PRB determined it was appropriate to send an acknowledgment letter to Mr. Warren, and it was issued on January 31, 2002.

The petitioner sent the NRC Chairman another letter dated February 12, 2002, in which he requested once again that NRC halt the shipments of spent fuel by CP&L to the Harris Plant. This letter is being treated as a supplement to the original petition. A Director's Decision (DD) is being developed and will be structured around the interim compensatory measures (ICMs) for transportation of spent fuel. The petitioner was informed that his letter of February 12, 2002, is currently in review and will be considered along with the previous letter (November 5, 2001) in the 2.206 process.

On May 30, 2002, the staff informed the petitioner that it would not meet the goal of issuing the proposed DD within 120 days while they awaited Commission guidance on the draft ICMs.

The staff received a Staff Requirements Memorandum (SRM) on the Transportation ICMs on June 28, 2002, which provided additional guidance and direction to move forward with addressing the ICMs with industry and stakeholders. A meeting was held on 7/30/02 with state

and industry representatives to discuss the details of the ICMs and to gain an understanding of their impact. Many comments were received.

The staff determined that the ICMs should be issued prior to sending the draft Director's Decision to the petitioner and licensee for comment. Therefore, the staff requested and received an extension until August 29, 2002, to issue the proposed Director's Decision. On July 17, 2002, the petition manager called Jim Warren of NC WARN to apprise him of the status of NRC's response to his petition and inform him of the extension that was granted and the reason for the extension.

A decision was made to issue the proposed Director's Decision without the benefit of the ICMs being finalized since issuance of the ICMs was imminent. The proposed DD was sent to the petitioner and licensee on August 29, 2002.

Current Status:

The staff addressed the comments that were received and the final DD (DD-02-05) was issued on November 12, 2002.

The NRC denied the petitioner's request to halt rail shipments of spent nuclear fuel. NRC continues to believe that the established system of regulations coupled with the added physical security measures adequately protect the transportation of spent nuclear fuel.

Facility:	<u>All Operating Nuclear Power Plants (103) in the U. S.</u>
Petitioner(s):	David Lochbaum, Union of Concerned Scientists,
Date of Petition and supplements:	3/11/2002, 3/21/2002, and 3/22/2002
Director's Decision To Be Issued by:	NRR
EDO Number:	G20020142
Proposed DD issuance (completed):	9/05/2002
Final DD issued:	11/15/2002 complete
Last Contact with Petitioners:	9/05/2002 11/15/02
Petition Manager:	D. Jaffe
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioner is requesting that the NRC order the licensees of all operating nuclear power plants to take measures that will reduce the risk from sabotage of irradiated fuel. Specifically, those measures are:

- (1) to impose a 72-hour limit for operation when the number of emergency diesel generators (EDGs) is one less than the number in the Technical Specifications Limiting Condition for Operation whenever the reactor is in any mode of operation other than hot shutdown, cold shutdown, refueling, or defueled, and
- (2) to impose a requirement that the time it would take the spent fuel pool water to boil after forced circulation stops must be at least 24 hours.

Background:

As the basis for the first requested action, the petitioner stated that the transmission lines and substations constituting the electrical grid are virtually unprotected targets for terrorists. Likewise, the switchyard at the typical nuclear power plant is outside the security perimeter fences. The likelihood that a successful terrorist attack against the electrical grid could cascade into a station blackout and result in reactor core damage increases the longer the EDGs are out of service.

As the basis for the second requested action, the petitioner stated that terrorists could successfully attack the offsite power transmission lines and/or the water intake system for cooling water and cause spent fuel pool cooling to be stopped. Restricting the time-to-boil to a minimum of 24 hours reduces the likelihood that any such terrorist actions would result in damage to the irradiated fuel in the spent fuel pool because plant workers would have more time to restore the normal cooling system or provide a backup system.

The petitioner was contacted on March 20, 2002. He requested a teleconference with the Petition Review Board (PRB), which was held on March 26, 2002. The petitioner submitted supplements to his petition on March 21 and 22, 2002. The supplements list other groups who wish to be added as co-petitioners. Following the teleconference with the petitioner, the PRB met on March 26, 2002, and agreed that the incoming letter meets the criteria to be considered under the 2.206 process. However, the PRB decided not to grant the part of the petition that requested immediate action pending further evaluation. An acknowledgment letter and a *Federal Register* notice on this petition were issued on May 8, 2002. The petition manager contacted the petitioner on June 6, 2002, to inform him of the status of the review.

The PRB met on July 18, 2002, to discuss the status of the technical branches' review and the

content of the proposed Director's Decision.

The proposed DD was sent to the petitioners on September 5, 2002. Comments were received on September 23, 2002, and were addressed by the staff

Current Status:

The staff addressed the comments that were received and the final DD (DD-02-07) was issued on November 15, 2002.

The NRC has partially granted the petitioners' request that action be taken to reduce the risk from sabotage of irradiated fuel through issuance of Orders on February 25, 2002, concerning on-site security. The NRC has denied the request to restrict the heat load in the spent fuel pool (SFP) by establishing a minimum time-to-boil of 24 hours from loss of forced cooling. Should sabotage of the primary SFP cooling capability occur when there is a high heat load in the SFP, the availability of alternate SFP cooling assures protection of irradiated fuel. In addition, the NRC has concluded that there is no need to restrict allowed outage times for emergency diesel generators to 72 hours or desist issuing enforcement discretion to extend the allowed outage time of emergency diesel generators.

Facility:	<u>Oyster Creek Generating Station</u>
Petitioner:	Jersey Shore Nuclear Watch
Date of Letter:	6/21/2002, as supplemented on July 18, 2002
Director's Decision to Be Issued by:	NMSS
EDO Number:	G20020385
Proposed DD issuance:	12/10/2002
Last Contact with Petitioner:	11/04/2002
Petition Manager:	Steve O'Conner
Case Attorney:	Jack Goldberg

Issues/Actions requested:

The petitioner requests that the NRC issue an order to the licensee, suspending the dry cask storage program at Oyster Creek.

Background:

As a basis for the above requests, the petitioner raised concerns with: the location of the Oyster Creek independent spent fuel storage installation relative to local roads and communities; the ability of the NUHOMS dry spent fuel storage system to survive a sabotage attack; the adequacy of Oyster Creek security measures for fuel handling activities; the adequacy of the Oyster Creek emergency evacuation plan; and the quality of the NUHOMS systems planned for use at Oyster Creek.

The petitioner participated in a telephone call with the Petition Review Board on July 18, 2002. In response to the PRB discussion, the petitioner provided additional information on July 18, 2002, to supplement the petition request. This information is also being considered in the review of the petition.

The petitioner's request for NRC to immediately suspend the license for the NUHOMS dry spent fuel storage system and halt transfer of spent fuel from wet pool storage to dry storage modules at Oyster Creek was denied because the safety concerns were reviewed and determined not to pose an undue risk to public health and safety. The Commission does not believe that immediate action is required because the licensee for Oyster Creek is not planning to load additional fuel canisters until 2003.

An acknowledgment letter and Federal Register notice were issued on August 7, 2002.

On October 30, 2002, a teleconference was held with the petitioner and her counsel regarding the status of the proposed Director's Decision. The petitioner asked that we specifically address certain accident scenarios discussed in the petition in our response. She also asked if there was any way that the petitioners could get a hearing for the Oyster Creek ISFSI issues.

Current Status:

An additional teleconference with the petitioner was held with a member of OGC present on November 4, 2002, to further discuss the issue of a hearing. The staff is preparing a proposed Director's Decision which is scheduled to be sent to the petitioners and the licensee for comment by December 10, 2002.

Facility:	<u>Waltz Mill Pennsylvania Site</u>
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Petitioner: Viacom, Inc.
Date of Letter: October 30, 2002
Director's Decision to be Issued by: NMSS0
EDO Number: G20020629
Proposed DD issuance: TBD
Last Contact with Petitioner: 11/08/02
Case Attorney: Jack Goldberg

Issues/Actions requested:

That the NRC issue an order to Westinghouse Electric Company LLC, the holder of license SNM-770 on the Waltz Mill, Pennsylvania Site, which would require Westinghouse's cooperation in the decommissioning of the Westinghouse Test Reactor (WTR) license TR-2. In particular, the order would require Westinghouse to:

(1) provide certain radiological survey data to NRC which NRC has requested. The survey data in question determines what residual radioactivity remains in-situ.

(2) accept under SNM-770 certain residual byproduct materials now held under Viacom license TR-2 and located at the WTR.

Background:

Viacom is the the current holder of NRC facility license TR-2 which authorizes possession, but not operation, of the WTR. To complete the Final Decommissioning Plan, two provisions still need to be accomplished: (1) determining the residual radioactivity remaining in situ, and (2) preparing the necessary amendments for and requesting the transfer of the remaining residual radioactivity and WTR facilities to the SNM-770 license.

At the time the decommissioning plan was approved, Westinghouse was the NRC licensee under both TR-2 and SNM-770, and so the transfer of the residual radioactive material from one materials license to another, held by the same licensee on the same site, was straightforward. Viacom now holds the TR-2 license while Westinghouse holds the SNM-770 license. Westinghouse's and Viacom's decommissioning responsibilities to each other at the Waltz Mill Site are set forth in an Asset Purchase Agreement. By failing to accept the transfer to the SNM-770 license, Viacom alleges that Westinghouse is in violation of 10 CFR 50.5.

Current Status:

The NRC staff spoke with petitioner's attorneys to inform them of receipt of the petition. In addition, NRC attorneys spoke with attorneys for Viacom and will meet with attorneys for Westinghouse. Westinghouse is preparing a response to be filed no later than the end of the first week of December.

The staff will be contacting the petitioner and licensees to set up a public PRB meeting after receipt of Westinghouse's response.

Attachment 2

Potential Petitions Still under Evaluation

Facility: GE Medical Systems and Adecco, Inc.
Petitioner: Thomas Saporito representing the National Environmental Protection Center
Date of Letters: October 1, 2002 (two letters)
Responsible Office: NMSS
Public PRB meeting: By letter dated November 19, 200, the staff issued a letter to the petitioner informing him of the PRB's recommendation that the submittals be rejected as petitions under 2.206. The petitioner declined the offer of a meeting to comment on the PRB's recommendations.

Issues/Actions requested:

That the NRC require GE Medical Systems and Adecco, Inc. to affirm that it maintains non-hostile work environments, to provide written documentation detailing employee concerns programs, or to implement such a program at all of its facilities licensed by NRC.

Facility: Palo Verde
Petitioner: Thomas Saporito representing the National Environmental Protection Center
Date of Letter: October 27, 2002, as supplemented on November 9, 2002
Responsible Office: NRR
Public PRB meeting: petitioner declined

Issues/Actions requested:

That the NRC advise its employees of the right to raise safety and health concerns; that the NRC cause an investigation into the circumstances surrounding Arizona Public Service Company's license amendment request and provide the petitioners with a copy of NRC's safety evaluation related to the amendment request.

Facility: Sequoyah and San Onofre
Petitioner: Thomas Saporito representing the National Environmental Protection Center
Date of Letter: November 13, 2002
Responsible Office: NRR
Public PRB meeting: petitioner declined

Issues/Actions requested:

That the NRC revoke a license amendment granted to the Sequoyah nuclear plant regarding steam generator tube inspection scope and revoke a license amendment granted to the San Onofre Nuclear Generating Station on steam generator tube inspections.

Facility: Maine Yankee
Petitioner: Randall Speck, Special Counsel for the State of Maine
Date of Letter: November 15, 2002
Responsible Office: NMSS
PRB meeting: To be scheduled

Issues/Actions requested:

That the NRC conduct a hearing on the efficacy of indefinite, long-term spent fuel storage at Maine Yankee.

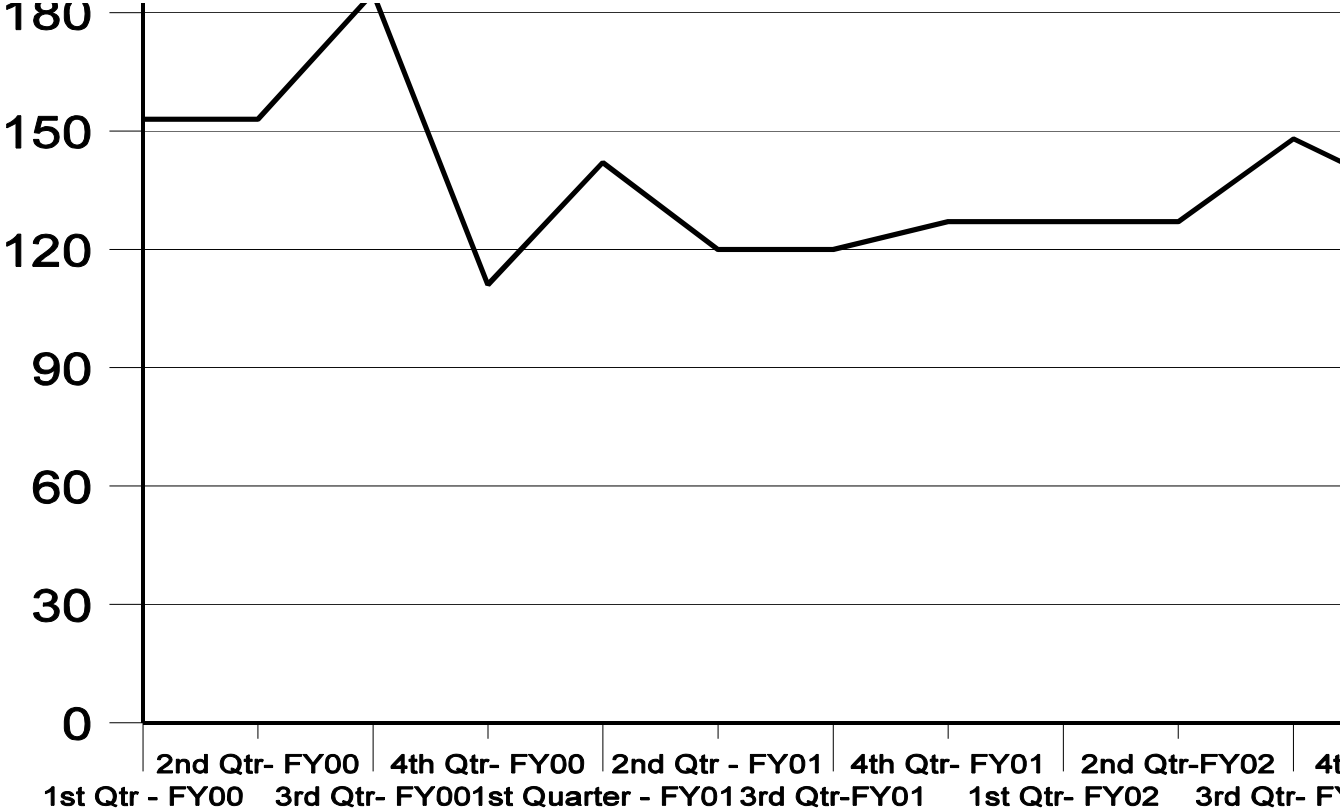
Attachment 3

AGE STATISTICS FOR AGENCY 2.206 PETITIONS

ASSIGNED ACTION OFFICE	FACILITY	Incoming petition	PRB meeting ¹	Acknowledgment letter / days from incoming ²	Proposed DD issuance Date/ age ³	Scheduled date for final DD/ age ⁴	Comments if not meeting the Agency's Completion Goals
NRR	Salem 1, 2, Hope Creek, Oyster Creek	9/17/01	11/19/01	12/20/2001 93	05/16/02 complete 148	11/01/02 80 complete	Technical staff resource constraint due to formation of new NSIR and the issuance of orders resulted in a delay in issuing proposed DDs. Significant comments received and a desire to maintain consistency among related petitions resulted in a delay in issuing final DD.
NRR	All 103 Nuclear Power Plants in the U.S.	10/26/01	11/19/01	12/20/2001 54	05/16/02 complete 148	11/01/02 80 complete	same as above
NRR	Indian Point 2, 3	11/08/01	11/19/01	12/20/2001 42	05/16/02 complete 148	11/18/02 94 complete	same as above
NMSS	Carolina Power & Light(CP&L)/ Progress Energy	11/05/01	1/16/02	01/31/2002 85	8/29/2002 complete 210	11/12/02 46 complete	Issuance of proposed DD was delayed to incorporate the Commission's latest direction regarding security of fuel shipments.
NRR	All 103 Operating Nuclear Power Plants in the U.S.	3/11/02	3/26/02	05/08/2002 57	09/05/2002 completed 114	11/15/02 55 complete	Resolution of petitioners comments resulted in a delay in issuance of final DD
NMSS	Oyster Creek	6/21/02	7/18/02	8/07/02 47	12/10/2002 120	---	
NRR	Waltz Mill Site	10/30/02	TBD	TBD	TBD	---	Scheduling a public PRB and issuance of an acknowledgement letter were delayed pending receipt and review of a submittal by the licensee.

- 1) Goal is to hold a public PRB meeting, which the petitioner is invited to participate in, within 2 weeks of receipt of petition (there is often a delay of up to two weeks from the date that the letter is issued until it is received by the reviewing organization).
- 2) Goal is to issue acknowledgement letter within 5 weeks of the date of incoming petition.
- 3) Goal is to issue proposed DD within 120 days of the acknowledgment letter.
- 4) Goal is to issue final DD within 45 days of the end of the comment period.

Attachment 4



NOTE: Includes both NMSS and NRR petitions