

From: [James Kim](#)
To: [Thomas Saporito](#)
Cc: [David Wrona](#); [Perry Buckberg](#); [Daniel King](#); [Jamie Heisserer \(She/Her/Hers\)](#)
Subject: Screen-out - 2.206 Petition dated April 30, 2023
Date: Wednesday, May 31, 2023 3:12:00 PM

Mr. Saporito,

The Nuclear Regulatory Commission (NRC) received your Petition pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.206 dated April 30, 2023, and initiated the screening process in accordance with Section II.A.2(d) of NRC Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions" (NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML18296A043). In your petition, you requested that the NRC issue a Confirmatory Order (CO) requiring all NRC licensees of Pressurized Nuclear Reactors; all licensees of Boiling Water Nuclear Reactors; NRC licensees of medical facilities; as well as with contractors, subcontractors and employees in the nuclear industry to contract with an outside vendor to (1) evaluate the licensees' "Employee Concerns Programs" (program), if they exist, to (2) determine the sufficiency of the program; (3) make recommendations to improve the program; (4) determine whether licensee employees are knowledgeable of the program; (5) determine whether a "chilling effect" has deterred licensee employees from raising safety concerns; and (6) determine whether settlement agreements between the licensees and their employees have a detrimental effect insofar as dissuading other licensee employees from raising safety concerns.

In support of your petition, you cited a list of retaliation complaints that resulted in settlement as the basis for the conclusion that the NRC: 1) failed to investigate whether licensees engaged in discriminatory conduct, 2) failed to investigate whether such alleged prohibited conduct by its licensees caused a chilling effect dissuading other employees from raising safety concerns, and 3) failed to evaluate whether the licensees' Employee Concerns Programs were effective and used by licensee employees.

The NRC has determined that your request does not identify any specific safety or security concerns (e.g., a technical deficiency or potential violation). A petition must provide information that could reasonably lead the NRC to take an enforcement action. Specifically, you indicated that a settlement in a discrimination case indicates that the NRC did not investigate that case. As described in Section 2.4.3 of the Enforcement Policy (ML22336A179), "an individual and his or her employer (or former employer) can use the Alternative Dispute Resolution (ADR) process to resolve discrimination complaints (under Section 211 "Employee Protection" of the Energy Reorganization Act) before the initiation of investigative activities by the Office of Investigation (i.e., pre-investigation ADR, commonly referred to as "early ADR") (see NRC Management Directive 8.8, "Management of Allegations" ML18073A206) or a licensee-sponsored ADR program that is similar in nature to the NRC's early ADR program. If the parties reach a settlement agreement using early ADR or licensee-sponsored ADR, the NRC subsequently reviews the agreement to ensure that it does not include any provisions in violation of the NRC's "Employee Protection" regulations. If no such restrictive provisions exist, the NRC will not investigate the discrimination complaint or take enforcement action." Accordingly, the NRC staff has screened your request out of the 2.206 Petition Process consistent with subsection II.A.2(d) (v) of MD 8.11, "Requests That Would Not Reasonably Lead to an Enforcement Action."

In addition, the NRC staff concluded, following review in accordance with Section II.B.1 of MD 8.11, that the concerns expressed in your request do not warrant immediate enforcement action.

Thank you for bringing these issues to the attention of the NRC. The 2.206 Petition Process exists to identify safety issues at NRC licensed facilities and your efforts are appreciated. For more information on the petition process please see <https://www.nrc.gov/about-nrc/regulatory/enforcement/petition.html>.

Thanks,

James Kim

Project Manager / 2.206 Petition Core Team Member

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