

# Final Director's Decision Pursuant to 10 CFR 2.206

---

DD-00-01

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF NUCLEAR REACTOR REGULATION

Samuel J. Collins, Director

In the Matter of	)	Docket Nos.50-245, 50-336, and
	)	50-423
NORTHEAST UTILITIES	)	
	)	License Nos. DPR-21, DPR-65, and
	)	NPF-49
(Millstone Nuclear Power Station, Units 1, 2, and 3)	)	(10 CFR 2.206)

---

## I. Introduction

By letter dated November 25, 1996, as amended on December 23, 1996, Ms. Deborah Katz and Mr. Paul Gunter (the Petitioners), on behalf of the Citizens Awareness Network, and the Nuclear Information and Resources Service, respectively, filed a Petition pursuant to Title 10 of the **Code of Federal Regulations**, Section 2.206. The Petitioners requested that the U.S. Nuclear Regulatory Commission (NRC) take the following actions: (1) immediate suspension or revocation of Northeast Utilities' (NU's or the licensee's) licenses to operate its nuclear facilities in Connecticut; (2) investigation of possible NU material misrepresentations to the NRC; (3)[a] revoke the operating licenses for NU's nuclear facilities if an investigation determines that NU deliberately provided insufficient and/or misleading information to the NRC and, [b] if NRC chose not to revoke NU's licenses, continued shutdown of NU facilities until the Department of Justice completes its investigation and the results are reviewed by the NRC; (4) continued listing of the NU facilities on the NRC's Watch List should any facility resume operation; (5) continued shutdown of NU facilities until the NRC evaluates and approves NU's remedial actions; (6) prohibition of any predecommissioning or decommissioning activities at any NU nuclear facility in Connecticut until NU and the NRC take certain identified steps to assure that such activities can be safely conducted; (7) initiation of an investigation into how the NRC allowed the asserted illegal situation at NU's nuclear facilities in Connecticut to exist and continue for more than a decade; and (8) an immediate investigation of the need for enforcement action for alleged violation of 10 CFR Part 50, Appendix B. The bases for the Petitioners' assertions were NU and NRC inspection findings and NU documents referred to in the Petition and a VHS videotape, Exhibit A, which accompanied the Petition. Specifically, the Petitioners identified areas that included inadequate surveillance testing, operation outside the design basis, inadequate radiological controls, failed corrective action processes, and degraded material conditions.

The NRC informed the Petitioners in a letter dated January 23, 1997, that their request for immediate suspension or revocation of the operating licenses for the NU nuclear facilities in Connecticut was denied and the issues in the Petition, as amended, were being referred to the Office of Nuclear Reactor Regulation for appropriate action.

The NRC issued a Partial Director's Decision (DD-97-21) dated September 12, 1997, which addressed all of the Petitioners' requests, with one exception. Specifically, with respect to Request 3a of the petitioners' request, the NRC deferred a decision on the request that the NU operating licenses for the Millstone units be revoked if an investigation determined that NU deliberately provided insufficient and/or false or misleading information to the NRC. The decision on that request was deferred at the time the Partial Director's Decision was issued because several NRC investigations were underway. Request 3b of the Petition, regarding the continued shutdown of NU facilities until the Department of Justice completed its investigation and the results are reviewed by the NRC, was denied in the Partial Director's Decision.

Notwithstanding the NRC's 1997 denial of Request 3b, the NRC concludes that, through the actions the NRC required the Millstone facilities to complete prior to restart, the intent of request 3b was met.

## **II. Discussion**

Since the time that NRC decided to defer a decision on request 3a, the NRC has conducted numerous investigations involving Millstone, many of which were open at the time of the Partial Director's Decision. On the basis of these investigations, the NRC found instances in which inaccurate or incomplete information had been provided to the NRC. For example, the licensee provided inaccurate and incomplete information to the NRC in submittals regarding the offloading of fuel to the Millstone Unit 1 spent fuel pool. A Severity Level III Notice of Violation was issued to the licensee on May 25, 1999, based in part on the willful submittal of inaccurate or incomplete information. Another investigation, conducted in conjunction with the U.S. Attorney's Office (Department of Justice), determined that the licensee deliberately provided inaccurate and incomplete information to the NRC regarding the qualifications of candidates for operator licenses. On September 27, 1999, the licensee pleaded guilty in Federal Court to 19 violations of the Atomic Energy Act and 6 violations of the Clean Water Act. At the pleading, the licensee agreed to pay \$10 million in fines and other compensations, in part, for false statements made to the NRC concerning the qualifications of candidates for operator licenses. The fines were of historic proportion and sent a very clear and distinct message that the NRC does not tolerate false statements or inaccurate information from licensees.

The NRC has carefully evaluated the Petitioners' request and has determined that revocation of the Millstone licenses is not warranted for several reasons. First, the NRC issued two Orders (August 14 and October 24, 1996) to the licensee that required, in part, that the licensee (1) contract with a third party to verify the adequacy of its efforts to establish adequate design bases and controls and (2) retain an independent third party to oversee implementation of its plan for reviewing and dispositioning safety issues raised by employees. Both of these Orders were closed by letters dated March 11 and April 28, 1999, respectively, based on satisfactory completion of the terms of the Orders. Second, the licensee has made significant changes in the management and operation of the facility since the 1996 timeframe. Third, the NRC provided significant oversight of the changes that occurred at Millstone and found them to be acceptable. That oversight included the creation of a Special Projects Office for the Millstone facility; augmentation of the resident inspector staff at the site; and conduct of several restart inspections, multidisciplinary team inspections, and Independent Corrective Action Verification Program inspections. The results of these inspection efforts, as well as information from the then-ongoing and completed investigations, were considered by the Commission in its decision to authorize restart of Millstone Units 2 and 3. Millstone Unit 3 was restarted in July 1998 and Millstone Unit 2 in May 1999. Fourth, significant enforcement action has been taken against NU (1) to reinforce the importance of operating the plants in accordance with the regulations and the terms of its licenses and (2) to emphasize the importance of ensuring that information submitted to the NRC is complete and accurate. In addition to the two referenced Orders and the \$10 million penalty assessed in conjunction with the criminal proceeding, the NRC also issued a \$2.1 million penalty in December 1997 for programmatic deficiencies, issues related to technical specifications, and recurring problems of inadequate procedures and failure to follow procedures, as well as other penalties and Notices of Violation.

### **III. Conclusion**

Therefore, notwithstanding the information developed by the NRC in its investigations, the NRC has determined that the revocation of the Millstone licenses is not warranted, given the changes made at the facility, NRC's oversight of those changes, and the enforcement actions taken to date. Accordingly, the NRC is not able to grant this final aspect of the Petitioners' request. However, the NRC is currently continuing to closely monitor the Millstone facilities and will continue to solicit stakeholders' input, as appropriate.

As provided in 10 CFR 2.206(c), a copy of this Final Director's Decision will be filed with the Secretary of the Commission for the Commission's review. This Final Director's Decision will constitute the final action of the Commission (for Petitioners' Request 3a) 25 days after its issuance, unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 15th day of February 2000.

FOR THE NUCLEAR REGULATORY  
COMMISSION

/RA/

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

---