

Report on Status of Public Petitions Under 10 CFR 2.206: July 31, 1999

Memorandum to: William D. Travers
Executive Director for Operations

Thru: Samuel J. Collins, Director/Original signed by:
Office of Nuclear Reactor Regulation

From: Brian W. Sheron, Associate Director/Original signed by:
for Project Licensing and Technical Analysis
Office of Nuclear Reactor Regulation

Subject: July 1999 Report on The Status of Public Petitions Under 10 CFR 2.206

The attached monthly report gives the status of 10 CFR 2.206 petitions as of July 31, 1999. During July, the Director's Decision (DD-99-09) on Millstone (EDO603), and a Demand for Information on Envirocare of Utah, Inc. (G19980767) were issued. Two petitions were closed. Thus there are 7 open petitions: 5 in NRR, 1 in OE, and 1 in NMSS.

Attachment 1 provides the status of petitions for the Offices of Nuclear Material Safety and Safeguards (NMSS), Nuclear Reactor Regulation (NRR), and Enforcement (OE). Attachment 2 gives the status of petitions that are in a confidential status and for internal distribution only. Attachment 3 shows the age and staff hours expended on open 2.206 petitions as of July 31, 1999, including a summary of the status of 2.206 petitions exceeding the 120-day scheduled completion goal. Attachment 4 shows the statistics for the 2.206 petitions processed during 1999.

Those parts of the monthly report not of a sensitive nature, and recently issued Director's Decisions, are placed in the Public Document Room and on the NRC's external home page, making them readily accessible to the public. The URL address is <http://www.nrc.gov/NRC/PUBLIC/2206/index.html>.

Attachments: As stated

Contact: Ram Subbaratnam, NRR
415-1478

**Report on Status of Public Petitions Under 10 CFR 2.206:
July 31, 1999
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Attachment 1:

<u>Facility</u>	<u>Petitioner/EDO No.</u>
Envirocare of Utah, Inc. Millstone	Natural Resources Defense Council/G19980767 E. Hadley, We the People, Inc./EDO603
Connecticut Yankee Seabrook	Bassilakis, Citizens Awareness Network (CAN)/GT97181 Union of Concerned Scientists (UCS)/ G19990173
Millstone Atlas Corporation	STAR et al./G19990201 Dagget, et al./(G19990011)
Connecticut Yankee and Millstone Nine Mile Point Units 1 & 2	Katz, Citizens Awareness Network(CAN)/GT96919 R. Norway/G19990224
Nine Mile Point Unit 1	T. Judson/G19990268

Attachment 1: Report on Status of Public Petitions Under 10 CFR 2.206

Facility:	<u>Envirocare of Utah, Inc.</u>
Petitioner:	Natural Resources Defense Council
Date of Petition:	12/30/98
Director's Decision To Be Issued by:	NMSS/DWM
Date Referred to Review Organization:	12/30/98
EDO Number:	G19980767
OGC Number:	P-99-01
Scheduled Completion Date:	7/12/99
Last Contact with Petitioner:	5/20/99
Petition Manager:	Harold Lefevre
Case Attorney:	J. McGurren

Issues/Action Requested:

The petitioner requests that the NRC issue an order to show cause why Khosrow B. Semnani, former President of Envirocare, should not be prohibited from participating in any NRC-licensed activity.

Background:

The petitioner correctly points out that in the February 7, 1997, denial of the Natural Resources Defense Council's (NRDC's) petition of January 8, 1997, requesting revocation of all of Envirocare's licenses, NRC indicated that no **immediate** action was required to protect public health and safety. NRC further recognized, and so stated in the February 7, 1997, Director's Decision, that the on-going (at that time) criminal investigation centering on Mr. Semnani's alleged bribery of Mr. Larry Anderson (former Director of the Utah Division of Radiation Control) may raise potential issues of integrity, which, if proven, may raise questions as to whether the NRC should have the requisite reasonable assurance that Envirocare will comply with Commission requirements.

The Department of Justice's criminal investigation of Mr. Semnani resulted in his conviction on a single charge of misdemeanor tax fraud. Mr. Semnani entered into an agreement with the Department of Energy (DOE) in 1997 wherein he, in light of possible economic sanctions against Envirocare, agreed to debar himself as president of Envirocare. This DOE/Mr. Semnani agreement remains in effect although it is the staff's understanding that Mr. Semnani has transmitted documents to the DOE requesting that his debarment be lifted. The Petition Review Board meeting was held on January 20, 1999. The petition acknowledgment letter was issued on February 2, 1999.

Current Status:

On July 12, 1999, the NRC issued a Demand for Information (DFI) against Mr. Khosrow Semnani requesting him to demonstrate why he should not be prohibited from participating in the NRC-sponsored activities. Thus, the petitioner's request was granted by Director's Decision dated July 12, 1999, and the petition was closed. The director's decision will become a final agency action after 25 days.

<u>Facility:</u>	<u>Millstone</u>
Petitioners:	E. Hadley on behalf of We the People, Inc.
Date of Petition:	8/21/95, supplemented 8/28/95
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	8/30/95
EDO Number:	603
OGC Number:	P-95-015
Scheduled Completion Date:	7/15/99
Last Contact with Petitioner(s):	7/27/99
Petition Manager:	J. Nakoski
Case Attorney:	R. Hoefling

Issues/Action Requested:

The petitioners allege that Northeast Utilities (NU) has offloaded more fuel assemblies into the spent fuel pool than permitted under License Amendments 39 and 40; that NU has knowingly operated Millstone in violation of its operating licenses; and that NU has submitted material false statements. The petitioners seek a 60-day license suspension for Millstone Unit 1 (after the unit is brought into compliance with the license and the design basis). The petitioners also request that the operating license be revoked until the facility is in full compliance with the terms and conditions of its license; before reinstatement of the license, a detailed independent analysis of the offsite dose consequences of total loss of spent fuel pool water be conducted; that enforcement action be taken against NU pursuant to 10 CFR 50.5 and 50.9; that actions be taken regarding a proposed license amendment pending before the Commission wherein NU seeks to increase the amount of spent fuel it may offload and that the amendment be denied; that the NRC retain an independent expert, at NU's expense, to prepare a safety analysis report on the proposed amendment; and that, before the issuance of any amendment, an analysis including both the probability and consequences of applicable events be conducted. In the supplement, the petitioners raised additional concerns including concerns at Millstone Units 2 and 3 and Seabrook.

Background:

Northeast Utilities (NU) provided its responses in 9/22/95 and 10/11/95 letters. The acknowledgment letter was

issued on 10/26/95. On 12/26/96, the staff issued a partial Director's Decision (DD-96-23) that addressed the technical aspects of the petitioners' requests. Region I drafted a Commission paper to resolve the enforcement issues associated with licensee wrongdoing. On 5/19/99, the Commission found the staff's approach regarding enforcement acceptable. On 5/25/99, the NRC issued the enforcement action to the licensee.

Current Status:

The Director's Decision (DD-99-09) on this petition was issued on July 27, 1999, and the petition was closed. In DD-99-09, it was noted that because the licensee had decided to decommission Millstone, Unit 1, the petitioners' request to suspend the operating license was, in effect, partially granted. Further, the NRC took enforcement action against the licensee for providing inaccurate information in a license amendment submittal, in effect partially granting the petitioners' request. The director's decision will become a final agency action after 25 days.

Facility:	<u>Connecticut Yankee</u>
Petitioners:	R. Bassilakis, Citizens Awareness Network (CAN) and P. Gunter, Nuclear Information and Resource Service (NIRS)
Date of Petition:	3/11/97
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	3/20/97
EDO Number:	GT97181
OGC Number:	P-97-003
Scheduled Completion Date:	8/13/99
Last Contact with Petitioners:	8/2/99
Petition Manager:	T. Fredrichs
Case Attorney:	M. Rafky

Issues/Action Requested:

The petitioner requested (1) that the NRC commence enforcement action against Connecticut Yankee (CY) (Haddam Neck) by means of a large civil penalty to assure compliance with safety-based radiological control routines, (2) modification of CY's license to prohibit any decommissioning activity, which would include dismantling or decontamination, until CY manages to conduct routine maintenance of the facility without any contamination events for at least 6 months, and (3) placement of CY on the NRC's "watch list."

Background:

An acknowledgment letter was issued on 4/3/97. A partial Director's Decision (DD-97-19) was issued on 9/3/97. DD-97-19 denied requests (2) and (3) above. In a public meeting on 10/27/97, which the petitioner attended, the staff stated that it was pursuing enforcement action regarding the remaining open item in the petition. The petitioner requested enforcement action on two radiation protection events that occurred in November 1996 and February 1997. Staff enforcement action regarding the November 1996 event was issued as a Notice of Violation on 4/5/99. Enforcement action regarding the February 1997 event was issued as a Notice of Violation on May 12, 1999.

Current Status:

Some revisions to the Director's Decision were needed as a result of management review. The anticipated issuance date is August 13, 1999.

Facility:	<u>Seabrook</u>
Petitioner:	Lochbaum, Union of Concerned Scientists
Date of Petition:	3/31/99
Director's Decision To Be Issued by:	OE
Date Referred to Review Organization:	4/12/99
EDO Number:	G19990173
OGC Number:	P-99-003
Scheduled Completion Date:	8/20/99
Last Contact with Petitioner:	6/9/99
Petition Manager:	J. Canady
Case Attorney:	Jack Goldberg

Issues/Action Requested:

The petitioner requested three specific actions: (1) that the NRC take enforcement action against the individuals alleged to have unlawfully discriminated against a contract electrician in violation of 10 CFR 50.7, as identified in NRC Office of Investigation (OI) Report 1-1998-005; (2) that the NRC take enforcement action against the individuals alleged to have created a false record in violation of 10 CFR 50.9, as identified in OI Report 1-1998-005; and (3) that the petitioner be granted permission to attend an upcoming predecisional enforcement conference between the NRC and the licensee on these matters.

Background:

The petitioner was contacted on April 15, 1999, via telephone, and informed that Virgil Beaston is the petition manager for his 10 CFR 2.206 request for action. The petitioner was informed that the 2.206 process is a public process and that the NRC would not keep his name and petition confidential. The petitioner stated that he understands that the 2.206 process is a public process and that he did not object to the NRC making his name and request for action public. The petitioner was also asked whether he had any information about the apparent violations referenced in his request for action other than that provided by the NRC in a March 16, 1999, letter to the licensee. The petitioner stated that he had no information other than that information contained in the NRC's letter.

An acknowledgment letter was sent to the petitioner on April 20, 1999. The acknowledgment letter stated that requests (1) and (2) above are being treated as proper requests for action under 10 CFR 2.206. The petitioner's request to attend the predecisional enforcement conference with the licensee was denied.

Current Status:

The DD is scheduled to be issued by August 20, 1999. James Canady is the new petition manager for OE and the petitioner will be informed of this change.

Facility:	<u>Millstone Units 2 & 3</u>
Petitioner:	STAR et al.
Date of Petition:	3/31/99
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	4/20/99
EDO Number:	G19990201
OGC Number:	P-99-05
Scheduled Completion Date:	9/14/99*
Last Contact with Petitioner:	6/30/99
Petition Manager:	John Nakoski
Case Attorney:	Jack Goldberg

Issues/Action Requested:

The petitioners' letter contained two petition requests. In the first petition request, three specific actions were requested: (1) that the NRC immediately suspend Northeast Utilities' license[s] to operate the Millstone power station until there are reasonable assurances that adequate protective measures can and will be taken in the event of a radiological emergency for Fishers Island, NY; (2) that the operating license[s] should be suspended until such time as "a range of protective actions have been developed for the plume exposure pathway EPZ [emergency planning zone] for emergency workers and the public;" and (3) that these matters be the subject of a public hearing, with full opportunity for public comment. The fundamental basis for the requests is the petitioners' claim that the Millstone Nuclear Power Station is not being operated within the law. Specifically, the petitioners stated that the site is in violation of 10 CFR 50.54(q) and 10 CFR 50.47 with regard to emergency planning requirements because Fishers Island, New York, located within the 10-mile EPZ for Millstone, does not have a functional evacuation plan. The petition requests that the EPZ be extended to include the mainland, which begins at 11-12 miles from the Millstone facility. This would require revising the regulations and the current licensing basis. The requested action, in effect, constitutes a petition for rulemaking.

In the second petition request, the petitioners requested that the NRC institute a proceeding, pursuant to 10 CFR 2.202, to suspend the operating license[s] for the Millstone Nuclear Power Station until the facility is in full compliance with the law. Specifically, in the second petition request, the petitioners maintain that all of the required factors in 10 CFR 50.54(s)(1): "demography, topography, land characteristics, access routes, and jurisdictional boundaries" are ignored in emergency planning for the Millstone Nuclear Power Station and, as such, 10 CFR 50.54(q) and 10 CFR 50.47 are violated.

Background:

The Petition Review Board (PRB) met on the two petitions on April 26, 1999. The PRB recommended that the petitioners' request for immediate action to suspend the license was to be denied. This recommendation was made because the current emergency response plan, endorsed by FEMA, is in force at Millstone. The PRB also recommended that the second petition request for a hearing pursuant to 10 CFR 2.202 should be denied. This recommendation was made for two reasons: first, it did not meet the Management Directive 8.11 criteria for a 2.206 petition, and second, it is, in effect, a petition for rule making for 10 CFR 50.47(c)(2), 10 CFR 50.54(s)(1), and Appendix E to Part 50. The petitioners were contacted on April 27, 1999, and informed of the NRC's denial of their request to immediately suspend the operating licenses of Millstone, as well as their request for a public hearing. However, the petitioners' concerns related to further evaluating the current EPZ and request for expansion of the current 10-mile zone were sent to FEMA by letter dated June 4, 1999.

Current Status:

The acknowledgment letter and FR notice on the petition were issued on May 14, 1999. A letter to FEMA, as discussed above, was sent on June 4, 1999. The letter to FEMA was forwarded to the petitioner in a letter dated June 30, 1999.

* This projection of completion date is based on receiving a response from FEMA by August 16, 1999.

Facility:	<u>Atlas Corporation</u>
Petitioner:	Earth Justice Legal Defense Fund
Date of Petition:	1/11/99
Director's Decision To Be Issued by:	NMSS
Date Referred to Review Organization:	1/12/98
EDO Number:	G19990011
OGC Number:	P-99-02
Scheduled Completion Date:	TBD*
Last Contact with Petitioner:	5/27/99
Petition Manager:	Myron Fliegel
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioners request NRC to take six immediate actions to halt impacts to and to ensure the conservation of the endangered species of fish in the Colorado River near the Atlas site.

Background:

On August 2, 1988, Atlas submitted an application for a license amendment to revise its site reclamation plan for uranium mill tailings at its no longer operating site near Moab, Utah. On March 30, 1994, a notice of intent to prepare an Environmental Impact Statement was published in the Federal Register. In January 1996, the Draft Environmental Impact Statement was published for public comment. On July 29, 1998, the U.S. Fish and Wildlife Service, in accordance with Section 7 of the Endangered Species Act (ESA), issued a final biological opinion for impacts to federally listed endangered species from the reclamation of the Atlas mill tailings site. On October 12, 1998, and November 13, 1998, petitioners notified NRC of their intent to sue under the ESA. On December 16, 1998, petitioners filed a Motion for Preliminary Injunction against NRC in the U.S. District Court, District of Utah.

A petition was filed on January 11, 1999, requesting the NRC to take six immediate actions related to potential impact on endangered fish in the Colorado River due to contaminants from the Atlas Uranium mill tailings pile. A Petition Review Board meeting was held on January 26, 1999, and the petitioners' requests for immediate action were denied by a letter of that date. In the letter, it was noted that none of the six items identified in the petition addresses a health, safety, or environmental concern that requires emergency steps before a complete review as provided for in 10 CFR 2.206. An acknowledgment letter for this petition was published in the

Federal Register on February 12, 1999.

Current Status:

On May 13, 1999, a supplement to the 2.206 petition was sent to NRC requesting immediate action on several items. On May 27, 1999, the NRC wrote to the petitioners, acknowledging receipt of the supplement, denying immediate action, and notifying petitioners that NRC was deferring action on the 2.206 petition, pending a decision by the Atomic Safety and Licensing Board (ASLB) on the petitioners' request for hearing on similar issues. There is no change in status for this petition.

*Revised completion date will be set following ASLB's decision on the January 27, 1999, hearing request.

Facility:	<u>Connecticut Yankee and Millstone Units 1, 2, and 3</u>
Petitioners:	D. Katz, Citizens Awareness Network (CAN) and P. Gunter, Nuclear Information and Resource Service
Date of Petition:	11/25/96, as amended 12/23/96
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	12/20/96
EDO Number:	GT96919
OGC Number:	P-96-026
Scheduled Completion Date:	TBD*
Last Contact with Petitioners:	6/3/99
Petition Manager:	R. Eaton
Case Attorney:	R. Hoefling

Issues/Action Requested:

The petitioners request the staff to take the following actions: (1) immediately suspend or revoke Northeast Utilities' (NU's) license to operate the Connecticut Yankee (CY) (Haddam Neck) and Millstone reactors due to chronic mismanagement; (2) investigate the possibility that NU made material misrepresentations to the NRC concerning engineering calculations and other information or actions relied upon to assure the adequacy of safety systems at CY and Millstone; (3) if an investigation determines that NU deliberately provided insufficient and/or false or misleading information to the NRC, revoke NU's operating licenses for CY and Millstone, or, if not, keep the reactors off-line pending a Department of Justice independent investigation; (4) if the reactors remain operating, petitioners request that they remain on the NRC's "watch list"; (5) keep CY and Millstone off-line until NU's chronic mismanagement has been analyzed, remedial management programs put into effect and the NRC has evaluated and approved the effectiveness of NU's actions; (6) in the event NU decides to decommission any or all of the reactors at issue, petitioners request the NRC not to permit any decommissioning activity to take place until the above issues are resolved; and (7) commence an investigation into how the staff allowed the illegal situation at NU's Connecticut reactors to exist and continue over a decade.

Background:

A partial Director's Decision (DD-97-21) addressing most of the issues was issued to the petitioners on 9/12/97.

DD-97-21 partially granted some of the petitioner's requests. Request (3) above was partially deferred for the Millstone plants and will be addressed in a subsequent final Director's Decision.

Current Status:

There is no change in status for this update. See Background for last change.

* Schedule for completion will be set following resolution of enforcement issues.

Facility:	<u>Nine Mile Point Units 1 & 2</u>
Petitioner:	Robert T. Norway
Date of Petition:	April 5, 1999
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	4/29/99
EDO Number:	G1990224
OGC Number:	-
Scheduled Completion Date:	10/9/99
Last Contact with Petitioners:	5/10/99
Petition Manager:	D. Hood
Case Attorney:	J. Goldberg

Issues/Action Requested:

(1) The petitioner requests that the NRC "take immediate action to issue a Show Cause Order or Civil Penalty against Niagara Mohawk Power Corporation and its senior nuclear and corporate management (Enforcement Sanctions) for 1) submitting an altered employee record, under fraudulent pretenses, to the Nuclear Regulatory Commission on May 10, 1996 and 2) for their actions for placing confidential and fraudulent statements pertaining to [his] work performance, a false written record of what the Administrative Law Judge (ALJ) had determined in Discrimination Case 95-ERA-005 and the confidential and fraudulent 1994 employee evaluation (which the Administrative Law Judge had found to be altered) into federal custody and into public record. These actions are in clear Violation of 10 CFR 2.790(a) and 10 CFR 50.9," (2) The petitioner also requests that the NRC, "take immediate action and issue a Show Cause Order or Civil Penalty against Niagara Mohawk Power Corporation and its senior nuclear and corporate management (Enforcement Sanctions) for Discrimination in Violation of 10 CFR 50.7 [and] 10 CFR 2.790...for their actions...allowing confidential, false, and fraudulent documentation that is disparaging, deleterious, and damaging to [his] goodwill, integrity, and reputation to be placed into permanent public record," (3) The petitioner also requests that NRC, "forward a complaint to the Office of the Inspectors [sic] General for an investigation of possible deliberate misconduct or negligence on the part of members of the NRC for failing to take proper action in this discrimination case, allowing NMPC representatives to place false and fraudulent documents in NRC custody and for allowing these documents to be placed into public record."

Background:

A Petition Review Board (PRB) meeting on the petition was held on May 5, 1999. The PRB recommended that

the petition manager solicit a written response from the licensee to be reviewed by OE. A letter requesting a licensee response on the petition was issued on May 10, 1999, and the response was received in July 1999.

Current Status:

An acknowledgment letter and FR notice on the petition were issued on June 9, 1999, and June 15, 1999, respectively. The issues regarding request (3) of the petitioner were forwarded to the Office of Inspector General on May 17, 1999, for review and suitable action. Counsel for the licensee responded to the petition and requested that the response be withheld from public disclosure. The NRC staff is currently considering their request.

Facility:	<u>Nine Mile Point Unit 1</u>
Petitioners:	Tim Judson Syracuse Peace Council, et al.
Date of Petition:	May 24, 1999
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	5/24/99
EDO Number:	G19990268
OGC Number:	-
Scheduled Completion Date:	10/24/99
Last Contact with Petitioners:	7/21/99
Petition Manager:	D. Hood
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioners request that NRC suspend NMPC's operating license for NMP1 by postponing the scheduled restart date until (1) NMPC releases the most recent inspection data on the plant's core shroud, (2) a public meeting can be held in Oswego County to review this inspection data and the...repair design to core shroud welds V-9 and V-10, and (3) an adequate public review of the safety of the plant's continued operation is accomplished. This request is based upon the assertions of "new and unreviewed" information and "safety concerns."

Background:

A Petition Review Board (PRB) meeting on the petition was held on June 2, 1999. The PRB determined that the request for immediate action to revoke or suspend the operating license for NMP1 by postponing the scheduled restart date should be denied because the cracked vertical welds (V9 and V10) have been repaired, restoring these shroud welds to their design bases; the licensee is following relevant staff-approved industry guidance (e.g., several BWRVIP reports) for outage activities; and the staff has already evaluated most of the NMP1-specific issues raised in the petition. These include a 1997 modification to the tie rod base support design (redesign of wedge-retaining clip), previous restart and operation contingent upon a mid-cycle reinspection of vertical welds, extended operation to the end of the full cycle, and the shroud reinspection plan for the 1999 refueling outage (RFO15). Also, the licensee's repair of V9 and V10 welds was in accordance with a staff-approved repair/inspection plan.

Current Status:

An acknowledgment letter and FR notice on the petition were issued on June 11, 1999. Copies of the licensee's June 9, 1999, letter on the 1999 shroud weld reinspection results and licensee's July 12, 1999, letter on the tie rod cap screw failure were forwarded to the petitioner on July 26, 1999. A director's decision is in preparation and is on track for completion by the scheduled due date.

Attachment 2: Report on Status of Public Petitions Under 10 CFR 2.206 with Decisions Pending Before the Commission and the Courts.

<< ---- NOT FOR EXTERNAL DISTRIBUTION----->>

DELETED

End of Status Report

<<<---NOT FOR EXTERNAL DISTRIBUTION--->>>

**Attachment 3: Age and Resource Expenditures for Agency 2.206
OPEN Petitions As of July 31, 1999**

DELETED

**Attachment 4: Statistics of Petition Processed under 10CFR 2.206
during 1999 (7/99)**

Attachment 4

Statistics of Petition Processed under 10 CFR 2.206 during 1999(7/99)

