

September 16, 1999

MEMORANDUM TO: William D. Travers  
Executive Director for Operations

THRU: Samuel J. Collins/Original signed by R. Zimmerman for:  
Office of Nuclear Reactor Regulation

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

SUBJECT: AUGUST 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 August 31, 1999. During August, the Director's Decision (DD-99-10) on Seabrook (G19990173) was issued and the petition was closed. Thus there are 6 open petitions: 5 in NRR 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 August 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

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See next page

OFFICE	PDII/PM	LA:PDII	PD2/SC	PDII/PD	NMSS/IMNS /IMOB	DLPM:D	ADPT:NRR	D: NRR
NAME	RSubbaratnam	Dunnington	SPeterson	HBerkow	PGoldberg	JZwolinski/S Black	BSheron	S. Collins
DATE	/ /99	/ /99	/ /99	/ /99	/ /99	/ /99	/ /99	/ /99

\* See Previous Concurrence

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

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# Attachment 1

## Report on Status of Public Petitions Under 10 CFR 2.206

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Facility:	<b><u>Connecticut Yankee</u></b>
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:	9/10/99
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:

Revisions to the DD are being incorporated as a result of management review, with issuance scheduled for September 10, 1999.\*

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\* Actual issuance date was September 9, 1999.

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Facility:	<b>Seabrook</b>
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:	8/3/99
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:

Director's Decision (DD-99-10) on the petition was issued on August 3, 1999. The decision became a final agency action after the 25-day period allowed for Commission review. The petition has been closed.

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Facility:	<b>Millstone Units 2 &amp; 3</b>
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:	9/28/99
Last Contact with Petitioner:	7/28/99
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 first two actions of the first petition's request for immediate action to suspend the license were to be denied. This recommendation was made because the current emergency response plan, endorsed by FEMA, and in force at Millstone, meets all the applicable regulatory requirements. The PRB also recommended that the third action of the first petition's request for a hearing pursuant to 10 CFR 2.202 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 rulemaking 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. The acknowledgment letter and *FR* notice on the petition were issued on May 14, 1999. The June 4, 1999, letter to FEMA was forwarded to the petitioner in a letter dated June 30, 1999.

Current Status:

The staff received FEMA's evaluation on August 30, 1999. The final Director's Decision is now scheduled to be issued by September 28, 1999. The petitioners will be advised of the schedule delay.

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Facility:	<b>Atlas Corporation</b>
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:	8/5/99
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. On May 13, 1999, the staff received a supplement to the 2.206 petition requesting immediate action on several items: (1) to suspend the issuance of the license amendment to permit reclamation; (2) to initiate a supplemental National Environmental Policy Act process; and (3) to reinstate consultation with Fish and Wildlife Services under the Endangered Species Act. 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.

Current Status:

The ASLB presiding officer is still gathering information from the parties, preparatory to a discussion on the request for a hearing. The schedule for issuance of the Director's Decision will be set following the ASLB's decision.

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Facility:	<b>Connecticut Yankee and Millstone Units 1, 2, and 3</b>
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:	8/31/99
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.

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

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Facility:	<b>Nine Mile Point Units 1 &amp;2</b>
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 on July 27, 1999.

Current Status:

In a telephone call on May 10, 1999, the Petition Manager (PM) informed the petitioner that the PRB had accepted part of his petition per 10 CFR 2.206, and that the letter would be referred to OIG as requested. The accepted portion regards the issue of the altered employee record. The PRB did not accept the issue regarding the licensee handout at the pre-decisional enforcement conference since the handout's content had not been misunderstood by the NRC. The PM also stated that the PRB had determined that the petition did not raise issues of an immediate safety concern and the request for immediate action was, therefore, denied.

An acknowledgment letter and *FR* notice on the petition were issued on June 9, 1999, and June 15, 1999, respectively. The issues regarding the petitioner's third request 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. In an August 26, 1999 letter, the NRC staff denied counsel's withholding request, and provided 10 working days until September 10, 1999, for the licensee to request withdrawal before the NRC places the response in the Public Document Room. OE is expected to complete review of the petition by early September 1999 and the Director's Decision is expected to be issued in early October 1999.

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Facility:	<b><u>Nine Mile Point Unit 1</u></b>
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:	9/9/99
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."

By letter dated August 10, 1999, the petitioners requested a separate public meeting to discuss issues arising since the petition was submitted; namely, cracks identified in the main drain line and control rod stub tubes during hydrostatic testing of the Unit 1 reactor vessel, and the 1997 cracks in the emergency core coolant condensers . Although the August 10, 1999, letter includes issues that are beyond the scope of the initial petition (expanding the scope (1) from cracks in the core shroud to cracks in other components and (2) to concerns about the shroud inspection results) the NRC staff will respond to the August 10, 1999, letter as a supplement to the petition. In the August 10, 1999, letter, petitioners express concern that (1) the NRC's leak-before-break model for assessing safety of aging reactors is inadequate; (2) cracking is not confined to the core shroud but is spreading throughout the internals, pipes, and other systems, representing an unanalyzed condition being identified piecemeal, revealing a pattern of degradation of reactor components and systems, and suggesting overall embrittlement of the reactor; (3) core shroud weld V-10 exceeded the crack growth rate limit in the NRC's November 1998 safety evaluation and the rate predicted by General Electric; and (4) the large crack growth rate measurement error (about 10 microinch/hour) provides a great deal of uncertainty compared to the NRC's limit of 22 microinch/hour, and the measured rate should be at least 2 sigma below any established safety limit.

Background:

A Petition Review Board (PRB) meeting on the petition was held on June 2, 1999. The PRB accepted the May 24, 1999, letter as a valid petition pursuant to 10 CFR 2.206, but denied the request for a public meeting (hearing). 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. The acknowledgment letter accepted the May 24, 1999, pursuant to 10 CFR 2.206, but denied the request for meetings and other immediate actions before restart of Unit 1. 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. The staff will hold a Plant Performance Review meeting at the Nine Mile Point site on October 22, 1999. This meeting will discuss licensee performance issues, some of which relate to issues in the petition. Mr. Judson will be notified of the public meeting. A director's decision, which will include the issues in the August 10, 1999 letter, is in preparation and is on track for completion by late October 1999.

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Attachment 2  
Report on Status of Public Petitions Under 10 CFR 2.206 with  
Petitions Involving the Office of Enforcement (OE),  
the Office of Investigations (OI), the Inspector General (IG), and  
the Department of Justice (DOJ), and Other Sensitive Information

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**DELETED**

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END OF STATUS REPORT

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**Attachment 3**  
**AGE AND RESOURCE EXPENDITURES FOR AGENCY 2.206 OPEN PETITIONS**  
**As of August 31, 1999**

**DELETED**

# Attachment 4

Statistics of Petition Processed under 10 CFR 2.206 during CY 1999(8/99)

