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FINAL REPLY:

Paul Leventhal  
Edwin S. Lyman  
Nuclear Control Institute

TO:

Chairman Meserve

FOR SIGNATURE OF : \*\* PRI \*\*

CRC NO: 01-0350

Chairman

DESC:

SECY-01-0060 - The Safeguards Performance  
Assessment Pilot Program

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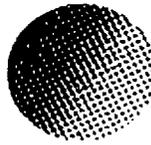
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**ACTION OFFICE:** EDO

**AUTHOR:** PAUL LEVENTHAL  
**AFFILIATION:** NEI  
**ADDRESSEE:** RICHARD MESERVE  
**SUBJECT:** OBJECTS TO THE CONCLUSIONS OF THE STAFF REQUIREMENTS MEMORANDUM (SRM), SECY 01-0060--THE SAFEGUARDS PERFORMANCE ASSESSMENT PILOT PROGRAM, 7/4/2001

**ACTION:** Signature of Chairman  
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July 10, 2001

Hon. Richard A. Meserve  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Chairman Meserve:

We are writing to object in the strongest terms to the conclusions of the Staff Requirements Memorandum (SRM) "SECY-01-0060 - The Safeguards Performance Assessment Pilot Program," dated July 5, 2001.

In particular, we are deeply concerned about the Commission's decision to exempt plants which volunteer to participate in the Safeguards Performance Assessment (SPA) pilot program from previously scheduled or anticipated Operational Safeguards Response Evaluation (OSRE) exercises, without regard to whether those plants have exhibited serious security weaknesses in recent site inspections. This will allow for a situation in which licensees with good reason to believe that they may fail an upcoming OSRE exercise can volunteer for the SPA pilot in the hope that the SPA evaluated exercise will prove to be less challenging than an OSRE.

As the Commission itself acknowledges, many fundamental issues governing conduct of the SPA evaluated exercise still have not been worked out --- the role of NRC staff and contractors foremost among them. Therefore, the public cannot have confidence that activities undertaken during the SPA pilot program will be equivalent to those of an OSRE in demonstrating compliance with 10 CFR 73.55(a). For the same reason, we also oppose any reduction in the number of OSRE exercises conducted annually among plants that are not participating in the SPA pilot program.

On the other hand, an OSRE conducted within a few months after a SPA pilot plant has performed an evaluated exercise could prove a valuable tool in enabling NRC to determine the effectiveness of the proposed SPA program. If a licensee passes a SPA evaluated exercise but fails a subsequent OSRE, it will indicate that the SPA evaluated exercise protocols are inadequate. If a licensee fails the SPA evaluated exercise but passes a subsequent OSRE, it will provide confidence that the SPA corrective action program is working. For this reason, we maintain that NRC should require SPA pilot plants to have follow-up OSREs, instead of granting them exemptions.

*Strategies for stopping the spread and reversing the growth of nuclear arms.*

Paul L. Leventhal, *President*, Peter A. Bradford, Julian Koenig, Sharon Tanzer, Roger Richter, Dr. Theodore B. Taylor  
BOARD OF DIRECTORS

In the opinion of some Commissioners, allowing exemptions from OSREs for SPA pilot-plant volunteers only if the plants have not identified any adverse performance issues would skew the pilot program to the best-performing plants. We believe this view is misguided, because it assumes that only plants guaranteed to receive an OSRE exemption will participate in the SPA pilot program. However, the Commission may not be aware that at a public meeting on May 18, Douglas Gipson, representing the Nuclear Energy Institute (NEI) SPA Working Group, said that the eight plants that have already volunteered were willing to go forward with the pilot program even if the NRC did not provide OSRE exemptions. NRC should accept this offer.

We fear that the July 5 SRM is the latest in a series of NRC decisions that are eroding NRC authority to ensure that adequate physical protection is being maintained at U.S. nuclear plants. This erosion comes at the same time that the terrorist threat against these plants is coming into sharper focus. We bring to the Commission's attention the recent court testimony of Ahmed Ressam, the terrorist convicted of trying to import explosives into the U.S. for the purpose of bombing Los Angeles International Airport. Ressam referred in his testimony to a terrorist training camp in Afghanistan linked to Osama bin Laden, where he received training in techniques for destroying "enemies' installations," including power plants, airports, railroads and large corporations (Laura Mansnerus and Judith Miller, "Terrorist Details His Training in Afghanistan," New York Times, July 4, 2001). This mention of "power plants" at the head of the list of potential terrorist targets should be taken very seriously.

In this context, we question the wisdom of giving an industry which continues to fail force-on-force exercises nearly half of the time a great deal of authority for detecting and correcting its own physical protection inadequacies.

Sincerely,

  
Edwin S. Lyman  
Scientific Director

  
Paul Leventhal  
President



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MESSAGE:

Hard copy to follow by mail.

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