

August 29, 2001

Mr. Alexander Marion, Director
Engineering
Nuclear Energy Institute
1776 I Street, N.W., Suite 400
Washington, D.C. 20006-3708

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
OF SEVERAL MRP SUBMITTALS

Dear Mr. Marion:

By letter dated May 18, 2001, the Nuclear Energy Institute (NEI), as the regulatory interface for the EPRI Materials Reliability Program (MRP), submitted proprietary (TP-1001491, Part 2) and non-proprietary (TP-1001491-NP, Part 2) versions of "PWR Materials Reliability Program Interim Alloy 600 Safety Assessment for US PWR Plants (MRP-44), Part 2: Reactor Vessel Top Head Penetrations." By letter dated June 6, 2001, the NRC staff determined that the information in MRP-44, Part 2, contained trade secrets or proprietary commercial information, as defined in 10 CFR 2.790. We therefore informed you that the information in the report marked as proprietary would be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Subsequent to your submittal of the MRP-44, Part 2, report, several public meetings, with members of NEI, the MRP, the nuclear industry and the public were held to discuss the assessment provided in the subject report. These meetings were conducted by the staff on June 7, July 3, and July 10, 2001. The MRP summarized its technical assessment in the subject report in a series of slides presented to the staff during the June 7 and 10, 2001, public meetings, which provided an overview of the material marked as proprietary in the MRP-44, Part 2, report.

Based on these presentations by the MRP, the staff has conducted additional reviews of the contents of the MRP-44, Part 2, report, your May 7, 2001, affidavit request for withholding any proprietary information in the subject report from public disclosure, and the slide presentations given by the MRP during the above referenced public meetings. As a result of these reviews, the staff has determined that some of the material marked as proprietary in the MRP-44, Part 2, report has subsequently been presented at these public meetings and were thus disclosed by the MRP to the public and, therefore, this material can no longer be considered proprietary (see NRC webpage "Generic Activities on PWR Alloy-600 Weld Cracking," <http://www.nrc.gov/NRC/REACTOR/ALLOY-600/index.html>).

The staff requests that you perform a comparison of the proprietary and non-proprietary versions of the MRP-44, Part 2, report and the MRP's slides presented during the referenced public meetings to determine if any of the information in the report has previously been disclosed to the public and should thus be made available in a revised non-proprietary version of the MRP-44, Part 2 report.

Additionally, by letters dated June 29, July 31 and August 21, 2001, you submitted three reports related to the Alloy 600 issue for staff review as follows:

- By letter dated June 29, 2001, NEI submitted proprietary and non-proprietary versions of MRP 2001-050, which provided the MRP's response to the NRC's June 22, 2001, letter from Dr. Brian Sheron (NRC) to Mr. Alex Marion (NEI) transmitting NRC staff questions of EPRI Interim Report TP-1001491, Part 2. Also enclosed in this submittal was an affidavit, dated June 28, 2001, and signed by Theodore U. Marston, Ph.D., Vice President and Chief Nuclear Officer, EPRI, which requested that the NRC withhold from public disclosure the information identified as proprietary.
- By letter dated July 31, 2001, NEI submitted proprietary and non-proprietary versions of "Table 1. - Key Plant Parameters of PWR Reactor Vessel Head Nozzle PWSCC Assessment (July 2001)." This letter also included an affidavit, dated July 31, 2001, signed by Dr. Theodore U. Marston, EPRI, which requested that the NRC withhold from public disclosure the information identified as proprietary.
- By letter dated August 21, 2001, NEI submitted EPRI Topical Report TP-1006284, "PWR Materials Reliability Program Response to NRC Bulletin 2001-01 (MRP-48), and the corresponding non-proprietary version of the report (TP-1106284-NP), on behalf of the PWR utilities in the U.S. This letter also included an affidavit, dated August 17, 2001, enclosed with the August 21, 2001, letter, signed by Dr. Theodore U. Marston, EPRI, which requested that the NRC withhold from public disclosure certain portions of the MRP-48 report considered as proprietary trade secrets.

In each of the above reports, you provided a proprietary table that contains key parameters and rankings for the PWRs in the U.S. nuclear power industry. The staff has reviewed these reports to determine if the criteria of 10 CFR 2.790 has been met to allow for withholding of the requested information from public disclosure. This was discussed with you, Mr. Larry Matthews of the MRP and Mr. Chuck Welty of EPRI during a telephone conference call on August 23, 2001. This teleconference discussed whether the bases for withholding proprietary information in the MRP-44, MPR 2001-050 and MRP-48 reports is consistent with the staff's criteria for withholding such information from disclosure, as stated in 10 CFR 2.790(b)(4) and 2.790(b)(5). The staff has found that the information in all of the columns in Table 1, with the exceptions of the columns entitled "Rank," "EFPYs Norm. to 600°F³," "Remain. EFPYs to Reach Ocone 3 from 3/1/01³," and "Next Scheduled Refueling Outage Date," contain publically available information and should thus be made available in non-proprietary versions of Table 1 in the subject reports. During this conference call, the MRP agreed with the NRC staff that all of the columns in Table 1, with the exceptions of the columns entitled "Rank," "EFPYs Norm. to 600°F³," "Remain. EFPYs to Reach Ocone 3 from 3/1/01³," and "Next Scheduled Refueling Outage Date," would be made publically available. Further, the MRP agreed to perform the comparison of the MRP-44, Part 2, report as requested above.

In addition, in these reports, the Arrhenius-type equations -- used for predicting when a given plant's vessel head penetration nozzles would crack, and which was used to calculate several parameters in these Tables -- were designated as proprietary. The staff has compared the calculational methods, parameters, and rankings in the MRP-44, MRP 2001-050, and MRP-48

reports to the corresponding methods, parameters, and rankings provided in the generic responses to Generic Letter (GL) 97-01, "Degradation of Control Rod Drive Mechanism Nozzle And Other Vessel Closure Head Penetrations," dated April 1, 1997, as given in Topical Reports WCAP-14901, WCAP-14902, CE NPSD-1085, and BAW-2301, and to the corresponding methods, parameters, and rankings provided in the NEI letter to the staff dated December 11, 1998. Based on this review, the staff does not agree that the Arrhenius-type equations should be classified as proprietary. During the teleconference, the MRP agreed to reclassify the Arrhenius-type calculation equations in the MRP-44, MRP 2001-050, and MRP-48 reports as non-proprietary information.

The bases in the affidavits for withholding the proprietary information in the above reports are as follows:

- (ii) (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
- (ii) (2) Is subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (iv) The Document is not available in public sources. EPRI developed the Document only after making a determination that the Document was not available from public sources. It required a large expenditure of dollars for EPRI to develop the Document. In addition, EPRI was required to use a large amount of time of EPRI employees. The money spent, plus the value of EPRI's staff time in preparing the Document, show that the Document is highly valuable to EPRI. Finally, the Document was developed only after a long period of effort of at least several months.
- (v) A public disclosure of the report would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the report both domestically and internationally. The Document can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

The MRP agreed to submit revised versions of these reports within 14 days of the teleconference. However, in accordance with 10 CFR 2.790(c), this information is being forwarded to you as notice that the information will be placed in the publicly available ADAMS database thirty (30) days from the date of this letter. If within thirty (30) days of this letter, you request withdrawal of these documents in accordance with 10 CFR 2.790(c), or provide additional reasons for the withholding of information not already expunged from the documents, your request will be considered in light of applicable statutes and regulations and a determination made whether the documents will be withheld from public disclosure or returned to you.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public disclosure should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your withheld information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/ra/

William H. Bateman, Chief
Materials and Chemical Engineering Branch
Division of Engineering
Office of Nuclear Reactor Regulation

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Sincerely,

William H. Bateman, Chief
Materials and Chemical Engineering Branch
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Office of Nuclear Reactor Regulation

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