

November 2, 2001

Joseph S. Mahaley, Director
Office of Security and Emergency Operations
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

SUBJECT: CONFIRMATION OF NUCLEAR MATERIAL INVENTORY AT LICENSEE SITES

Dear Mr. Mahaley:

I am responding to your letter of October 24, 2001, with which you forwarded an Action Plan for addressing issues raised in an audit report prepared by the U.S. Department of Energy (DOE), Office of the Inspector General. The audit report addressed inaccuracies in the Nuclear Materials Management and Safeguards System (NMMSS).

We share the concerns over inaccuracies between the holding of licensee sites and the data contained in the NMMSS, as discussed in the audit report, and we agree to work with you to resolve these inaccuracies and improve NMMSS. However, as we stated in our March 2, 1999, letter to DOE's Director of the International Safeguards Division, the U.S. Nuclear Regulatory Commission (NRC) can only require NRC licensees to report nuclear material balances to NMMSS, if they possess: (a) greater than 350 grams of special nuclear material; or (b) 1 kilogram or more of foreign origin source material. In addition, we noted that the NRC has no authority to compel reporting by facilities licensed by NRC Agreement States.

Your staff seems to have misinterpreted the statements that were made by my staff at the October 18, 2001, meeting. My staff indicated that it supported the development of an action plan but that we would not commit to any specific actions until we had the opportunity to review the audit report and confer with NRC senior management.

We received the audit report on October 31, 2001. As a result, I've directed my staff to arrange a management meeting to discuss the content of this report, and followup actions that both agencies can take to resolve these inaccuracies in a timely manner, improve the operation of NMMSS, and to develop a coordinated plan to implement these actions. Prior to the meeting, we request that DOE provide a list of the licensees for which DOE has identified a discrepancy with Government-owned material and a list of the discrepancies for each licensee. At the meeting, we'd like to discuss DOE's Action Plan, regulatory/legal constraints, costs for associated NMMSS support, licensee's contractual obligations to DOE for NMMSS reporting, priorities for planned corrective actions, and responsibilities for corrective actions.

If you have any questions concerning this response, please call me at (301) 415-7800, or Ms. Catherine Haney of my staff at (301) 415-6825.

Sincerely,

/RA/

Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

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