

December 31, 2002

The Honorable Harry Reid, Chairman
Subcommittee on Transportation,
Infrastructure, and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Fiscal Year (FY) 2002 Energy and Water Development Appropriations Act, House Report 107-258, directed the Nuclear Regulatory Commission (NRC) to continue to provide a monthly report on the status of its licensing and regulatory duties. Both the Senate and the House reports for the FY 2003 Energy and Water Appropriations Acts repeat this request, although further Congressional action must be taken before this legislation is enacted. The initial reporting requirement arose in the FY 1999 Energy and Water Development Appropriations Act, Senate Report 105-206. On behalf of the Commission, I am pleased to transmit the forty-seventh report, which covers the month of October 2002 (Enclosure 1).

The September report provided information on a number of significant NRC activities, including an update of our actions taken following the terrorist attacks of September 11, 2001, and a status report on the reactor vessel head corrosion at the Davis-Besse Nuclear Power Station in Oak Harbor, Ohio.

We would like to update you on both of these issues. In regard to the physical security and safeguards for NRC-licensed facilities, the NRC continues to closely monitor the current threat environment and work extensively with the newly established Department of Homeland Security and other government agencies in developing coordinated threat assessments, and coordinating security and emergency plan responsibilities. The NRC has developed a new Threat Advisory and Protective Measures System in response to Homeland Security Presidential Directive-3. In the event there is a change in the national threat level, we will promptly advise our licensees to implement appropriate protective measures.

In regard to Davis-Besse, the NRC special oversight panel, established to coordinate the agency's activities in assessing the performance problems associated with the corrosion damage to the reactor vessel head at the Davis-Besse Nuclear Power Plant, continues to monitor licensee activities. The plant will not restart until the NRC is satisfied that all safety concerns have been resolved. As previously reported, the Lessons-Learned Task Force (LLTF) established by the NRC Executive Director for Operations (EDO) has completed its work and, on October 9, issued its report on the agency's handling of issues associated with the corrosion damage to the reactor vessel head at the Davis-Besse Nuclear Power Plant. The LLTF presented its findings at a public meeting on November 20, in Oak Harbor, Ohio. A Senior Management Review Team, also established by the EDO, has completed its review and evaluation of the Lessons-Learned Task Force (LLTF) Report for the Degradation of the Davis-

Besse Nuclear Power Station Reactor Pressure Vessel Head. The Senior Management Review Team forwarded its recommendations to the EDO on November 26, 2002. The recommendations will be discussed at a Commission Meeting that will be held on January 14, 2003. We will continue to keep you informed of the status of this issue.

Since our last report, the Commission and the NRC staff also:

- issued a final rule on material control and accounting regulations for nuclear power plants, fuel cycle facilities and other licensees that possess 350 grams or more of special nuclear materials (uranium-233, enriched uranium, or plutonium). The amendments are procedural in nature, and of themselves, have no significant impact on public health and safety, the environment, or common defense and security. The rule is designed to streamline the regulatory process and provide additional flexibility to licensees. The rule amends the frequency and timing of reporting requirements for certain licensees for submitting material balance and inventory composition reports. The rule does not affect efforts to fulfill the requirements of the safeguards agreement between the United States and the International Atomic Energy Agency.
- signed a Memorandum of Understanding (MOU) with the Environmental Protection Agency (EPA) on the radiological decommissioning and decontamination of NRC-licensed sites. This MOU provides that the EPA will defer exercise of authority under the Comprehensive Environmental Response, Compensation and Liability Act (Superfund) for the majority of facilities decommissioned under NRC authority. The MOU includes provisions for NRC and EPA consultation for certain sites when, at the time of license termination, (1) groundwater contamination exceeds EPA-permitted levels; (2) NRC contemplates restricted release of the site; and/or (3) residual radioactive soil concentrations exceed levels defined in the MOU. The MOU responds to a 1999 report from the House Committee on Appropriations that stated: “[i]n the interest of ensuring that sites do not face dual regulation, the Committee strongly encourages both agencies to enter into an MOU which clarifies the circumstances for EPA’s involvement at NRC sites when requested by the NRC.” The MOU also is responsive to a General Accounting Office (GAO) report issued in 2000. The Commission continues to support future legislative action along the lines of Section 8 of the Commission’s June, 22, 2001 legislative package for the 107th Congress, to eliminate dual regulation.
- issued a license amendment for the H.B. Robinson nuclear power plant, Unit 2, which authorizes an increase in the generating capacity of the plant of 1.7 percent. The power uprate at the plant, located near Hartsville, South Carolina, will increase the generating capacity of the plant from 683 megawatts electric to 695 megawatts electric.
- issued a license amendment for the Peach Bottom nuclear power plant, Units 2 and 3, which authorizes an increase in the generating capacity of the plant of 1.62 percent. The power uprate at the plant, located in Delta, Pennsylvania, will increase the generating capacity of each unit from 1093 megawatts electric to 1110 megawatts electric.
- issued a license amendment for the Indian Point nuclear power plant, Unit 3, which authorizes an increase in the generating capacity of the plant of 1.4 percent. The power

uprate at the plant, located in Buchanan, New York, will increase the generating capacity of the plant from 1027 megawatts electric to 1041 megawatts electric.

- issued a license amendment for the Crystal River nuclear power plant, Unit 3, which authorizes an increase in the generating capacity of the plant of 0.9 percent. The power uprate at the plant, located in Crystal River, Florida, will increase the generating capacity of Unit 3 from 895 megawatts electric to 903 megawatts electric.
- issued a license amendment for the Point Beach nuclear power plant, Units 1 and 2, which authorizes an increase in the generating capacity of the plant of 1.4 percent. The power uprate at the plant, located in Two Rivers, Wisconsin, will increase the generating capacity of each unit from 511 megawatts electric to 518 megawatts electric.
- approved the transfer of the operating license for the Seabrook nuclear power station to FPL Energy Seabrook, LLC. North Atlantic Energy Service Corporation was the previous licensed operator and co-owner of the Seabrook Station, located in Rockingham County, New Hampshire.
- proposed a \$60,000 fine against the U.S. Enrichment Corporation (USEC) for failing to properly protect classified information at its Paducah Gaseous Diffusion Plant, located in Paducah, Kentucky. This plant processes uranium for use in fuel in nuclear power plants. Certain aspects of the uranium enrichment process are considered classified information, which must be properly protected from unauthorized disclosure.
- published in the Federal Register (67 FR 66311) on October 31, 2002, an interim policy regarding enforcement discretion for certain fitness-for-duty issues that affect employees at nuclear power plants and workers performing activities related to strategic special nuclear materials. The discretion policy allows licensees to forego specified checks on individuals being reinstated or transferred after a short interruption in authorization (of 30 days or less). Based upon industry experience, the NRC has concluded that there is limited risk from individuals who have established a work history within the nuclear industry, have previously met the access authorization and fitness-for-duty regulations for granting and maintaining authorization, and have a short break in authorization due to a vacation or a transfer to a different site. The interim enforcement policy will be effective on December 30, 2002, and will be used until final amendments to the NRC's fitness-for-duty requirements become effective.
- issued, on October 22, 2002, a Notice of Violation and a proposed \$43,200 fine to Advanced Medical Imaging and Nuclear Services of Easton, Pennsylvania, for deliberate violations of NRC requirements. These violations were identified during an NRC inspection conducted between November 30 and December 17, 2001, and during a subsequent investigation by the NRC Region I Office of Investigation. Previously, on December 14, 2001, NRC issued Orders to two company officials, barring them from any involvement in NRC-licensed activities for one year from the date the facility's license was suspended (i.e., until December 14, 2002). The NRC found that the company deliberately used NRC-licensed materials and conducted NRC-licensed activities between March and November 2001 without a required authorized user or radiation safety officer.

- issued an amendment to the Trojan independent spent fuel storage installation which allows the license holder, Portland General Electric, to use a site-specific model of the Holtec International Multi-Purpose Canister (MPC), in lieu of the previously approved TranStor fuel basket. The Holtec MPC will be used as part of an integrated system that still uses the TranStor concrete cask.
- published a proposed rule which revises the Pacific Sierra Nuclear Associates VSC-24 listing in the 10 CFR 72.214 list of approved spent fuel storage casks. This amendment will permit a Part 72 licensee to store different specific fuel control elements as integral components to fuel assemblies under a general license.
- issued an amendment to the NUHOMS® MP-187 spent fuel cask transportation certificate of compliance. The amendment allows for an alternative to the American Society of Mechanical Engineers code for flaw tolerance analysis. This code alternative is approved for only one specific cask to be used by the Sacramento Municipal Utility District at the Rancho Seco independent spent fuel storage installation.
- participated in the TOPOFF (Top Officials) 2 national seminar with other emergency response functional leaders from Federal, State, and local agencies, and the Canadian government. TOPOFF 2 is a Congressionally mandated series of exercises dealing with weapons of mass destruction terrorism. The exercises were designed to provide training for Federal, State, and local top officials and responders and demonstrate coordinated national crisis and consequence management capabilities.
- published, on October 17, in the Federal Register (67 FR 64033), a final rule that amends the Commission's fee regulations in 10 CFR 170. This amendment establishes a provision for assessing Part 170 fees to the affected applicant or licensee so that the NRC can recover its full costs of contested hearings on licensing actions which involve U.S. Government national security initiatives. This rule is a special exception to the Commission's longstanding policy of not charging this type of fee for contested hearings.
- published, on October 7, in the Federal Register (67 FR 62403), a proposed rule that would amend the Commission's regulations to bring the amount of financial assurance required for certain materials licensees more in line with current decommissioning costs.
- issued, on October 16, 2002, Orders to licensees affecting the Nation's 31 independent spent fuel storage installations (ISFSIs). The Orders modify either the general or site-specific licenses issued to the ISFSIs to require compliance with specified interim safeguards and security compensatory measures.
- conducted, on October 28-30, 2002, the annual Nuclear Safety Research Conference. This conference, sponsored by the NRC's Office of Nuclear Regulatory Research, was attended by approximately 400 persons from 18 countries. The conference program focused on research associated with regulatory issues in areas such as advanced reactors, dry cask storage and transportation of spent nuclear fuels, and probabilistic risk assessment.

I have enclosed (Enclosure 2) the update to the Tasking Memorandum which delineates the schedules for accomplishing high priority initiatives.

Please do not hesitate to contact me if I may provide additional information.

Sincerely,

/RA/

Richard A. Meserve

Enclosures:

1. Monthly Report
2. Tasking Memorandum

cc: Senator James M. Inhofe

Identical letter sent to:

The Honorable Harry Reid, Chairman
Subcommittee on Transportation,
Infrastructure, and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510
cc: Senator James M. Inhofe

The Honorable Joe Barton, Chairman
Subcommittee on Energy and Air Quality
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515
cc: Representative Rick Boucher

The Honorable Sonny Callahan, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515
cc: Representative Peter J. Visclosky

The Honorable Harry Reid, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States Senate
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cc: Senator Pete V. Domenici

The Honorable W.J. "Billy" Tauzin, Chairman
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515
cc: Representative John D. Dingell

The Honorable James M. Jeffords, Chairman
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cc: Senator Bob Smith

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