

August 10, 2004

The Honorable Marcy Kaptur  
United States House of Representatives  
Washington, D.C. 20515

Dear Congresswoman Kaptur:

Thank you for your letter of July 23, 2004. I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC). In your letter you ask how any NRC civil fine, or a portion of it, that was levied against the operator of the Davis-Besse Nuclear power plant can be used to help establish a nuclear training and engineering endowment program at the University of Toledo's Engineering School.

This is not the first time a proposal similar to yours has been presented to the NRC. In 1990, Senator John B. Breaux asked the NRC to redirect its civil penalties to help fund nonprofit research and educational organizations relating to radiological health and safety. In 1997, the State of Connecticut asked the NRC to redirect fines to fund a nuclear safety inspector position.

As with the prior requests, I must inform you that a fine received by the U.S. Government must be paid to the general treasury and cannot be used for other purposes. In response to the NRC's request for an opinion on Senator Breaux's suggestion, the Comptroller General decided in 1990 that such allocations would be in "circumvention of the congressional appropriations process," resulting in an impermissible "augmentation of NRC appropriations" forbidden under the Miscellaneous Receipts Act. The relevant portion of that Act, which is codified at 31 U.S.C. 3302(b), states that "an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim." The Comptroller General went on to state that Congress specifically defined the remedies NRC has available to correct violations. Congress, however, granted NRC no authority to mitigate penalties by permitting licensees to fund nuclear safety research projects at universities. Please see the enclosed Comptroller General opinion, which is also reported at 70 Comp. Gen. 17 (1990), under the title, "Nuclear Regulatory Commission's Authority to Mitigate Civil Penalties."

In short, the Commission is not able to redirect fines for the purpose that you propose, absent legislation that would remove the current legal prohibitions. Of course, Congressional appropriation of funding for such training is an alternate approach. The Commission appreciates your interest in promoting advanced training and engineering in the nuclear fields for your region.

Sincerely,

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Nils J. Diaz

Enclosure: As stated