

January 18, 2005

The Honorable George V. Voinovich, Chairman  
Subcommittee on Clean Air, Climate Change,  
and Nuclear Safety  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

The Fiscal Year (FY) 2005 Energy and Water Development Appropriations Act, House Reports 108-554 and 108-792, directed the Nuclear Regulatory Commission (NRC) to continue to provide a monthly report on the status of its licensing and regulatory duties. 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 seventy-second report, which covers the month of November 2004. I am also providing more recent information in this cover letter in order to keep you fully and currently informed of NRC's licensing and regulatory activities.

The previous report provided information on a number of significant activities, including the following items: (1) the additional security review of publicly available documents to ensure that potentially sensitive information is removed from the agency's on-line public library; (2) the postponement of two public meetings involving issues at the Vermont Yankee Nuclear Power Station originally set for November 9, 2004; and (3) the issuance of a final rule, 10 CFR 50.69, that incorporates up-to-date analytic tools and risk insights to enhance plant safety by enabling nuclear power plant licensees to determine more precisely the safety significance of structures, systems, and components (SSCs) and adjust the treatment of these SSCs accordingly.

In regard to item 1 above, the NRC has restored additional non-sensitive documents to its Web site, including documents pertaining to all active adjudicatory cases in the agency's Electronic Hearing Docket. Portions of the Louisiana Energy Services (LES) and the United States Enrichment Corporation (USEC), Inc. documents that were found to be sensitive have now been redacted, and the remaining portions of the documents have been restored to the Agencywide Documents Access and Management System (ADAMS). Because public access to documents concerning the LES license application was limited after the NRC shut down its on-line documents library for a security review, the public comment period for the draft environmental impact statement for the proposed uranium enrichment plant to be built in Lea County, New Mexico, was extended until January 7, 2005. The "new reactors" category of other restored documents relate to early site permits, standard design certifications, and combined licenses for nuclear power plants. These actions restored a large portion of documents that were removed on October 25, 2004, for a security review. The NRC staff review of the remaining documents is ongoing, and the exact date of its completion is not certain. We will advise you when the review has been completed.

With respect to item 2 above, on December 2, 2004, the NRC issued two reports on recent inspections at the Vermont Yankee Nuclear Power Station. In response to requests from local stakeholders, both reports were issued prior to a December 16 public meeting to allow time for stakeholders to review the reports in preparation for the public meeting. The first report documents the conclusions of an engineering inspection that was conducted from August 9 through September 3. The special inspection team identified eight apparent violations of very low safety significance, all of which must be addressed by the plant operator. The second report contains the results of the special inspection regarding spent fuel segments that were reported missing at the facility. The team concluded that the spent fuel segments found in July 2004 are the spent fuel segments misplaced in January 1980. The report identifies the licensee's failure to account adequately for the two spent fuel segments from 1980 through 2004 as an apparent violation of NRC requirements. The findings of both inspections were discussed at a public meeting of the Vermont State Nuclear Advisory Panel (V-SNAP) on December 16, 2004. This meeting replaced the NRC meetings that had been scheduled for November 9, but had to be postponed because of concerns raised by local officials that the expected attendance would exceed the capacity of the facility at the initial meeting location.

In addition, on November 22, 2004, the Atomic Safety and Licensing Board (ASLB) issued its ruling on the August 30, 2004 petitions from the New England Coalition (NEC) and Vermont Department of Public Service (DPS) requesting a hearing on the Vermont Yankee Extended Power Uprate (VY EPU) amendment request. The ASLB ruled that two of the seven contentions from NEC and two of the five contentions from Vermont DPS were admissible and, therefore, granted a hearing. The ASLB still needs to rule on a sixth late-filed contention from Vermont DPS and other procedural matters.

I would like to update you on the status of our oversight activities at Public Service Enterprise Group, Nuclear LLC's (PSEG) Hope Creek plant, located in Hancocks Bridge (Salem County), New Jersey. As discussed in the previous Monthly Report, the NRC dispatched a special inspection team to the site to review the circumstances surrounding the October 10, 2004 steam line failure and shutdown with complications. The special inspection team has completed its inspection activities and published its preliminary inspection findings in advance of the public exit meeting that was held on January 12, 2005. In addition to a discussion of the special inspection results, the January 12, 2005 meeting also included a review of the issues associated with the plant's "B" reactor recirculation pump and exhaust piping for the high-pressure coolant injection pump. The results of the NRC's technical review and inspections indicate that the licensee can safely operate the plant. As of January 13, 2005, the licensee is preparing to resume operation of the plant within the next several days. Background information regarding the Hope Creek plant can be found on the NRC's web site (<http://www.nrc.gov>).

In a related matter, the NRC recently established a dedicated website devoted to the topic of safety-conscious work environment (SCWE) at nuclear power plants, with a focus on the NRC's ongoing review at the Salem and Hope Creek plants in New Jersey. The Hope Creek and Salem nuclear plants are located at the same site, and, in early 2004, the NRC conducted an extensive assessment of the environment there for raising and addressing safety issues. The new page provides the history of SCWE at the Salem and Hope Creek site, operated by PSEG Nuclear, since the NRC's Region I office initiated its review in early 2004.

Recently, the Commission, or in some cases the NRC staff, also accomplished the following:

- published in the Federal Register on December 6, 2004 (69 FR 70471), a notice of acceptance for docketing and notice of opportunity for hearing regarding renewal of the operating licenses for the Brunswick Steam Electric Plant, Units 1 and 2. The Brunswick units are boiling-water reactors, located near Southport, N.C. The licensee (Progress Energy Carolinas, Inc.) submitted the license renewal application to the NRC on October 18, 2004, requesting an additional 20 years of operation for the two-unit facility.
- published in the Federal Register on December 15, 2004 (69 FR 74949), a notice of a final rule amending NRC regulations to broaden the scope of the regulations applicable to persons who may require access to classified information, to include persons who may need access in connection with licensing and regulatory activities under the regulations that govern the disposal of high-level radioactive waste in geologic repositories, and persons who may need access in connection with other activities as the Commission may determine, such as vendors of advanced reactor designs. The direct final rule also amends NRC regulations to broaden the scope of the regulations applicable to procedures for obtaining facility security clearances, to include persons who may need to use, process, store, reproduce, transmit, transport, or handle NRC classified information in connection with the above-identified activities. The final rule is effective on February 28, 2005, unless significant adverse comments are received by January 14, 2005.
- published in the Federal Register on December 22, 2004 (69 FR 76795), an environmental assessment (EA) associated with NRC's plans to issue a schedular exemption for the Oyster Creek Nuclear Generating Station (OCNGS), a boiling-water reactor facility, located in Ocean County, New Jersey. The exemption would allow the current operating license to remain in effect until the NRC has rendered a final decision on the license renewal application in accordance with the timely renewal provision specified in 10 CFR 2.109(b). The exemption is contingent upon the following conditions being met: (1) on or before July 29, 2005, AmerGen Energy Company, LLC, (the licensee) must submit a sufficient license renewal application for OCNGS which the NRC staff finds acceptable for docketing in accordance with 10 CFR 2.101 and the requirements of 10 CFR Part 54; and (2) AmerGen must provide any requested information as necessary to support the completion of the NRC staff's safety and environmental reviews in accordance with the review schedule issued by the NRC.
- received by letter dated November 19, 2004, formal notification by General Electric (GE) of its intent to submit an application for design certification of the Economic Simplified Boiling Water Reactor (ESBWR) in June 2005. GE requested the NRC to complete the design certification within 30 months to support utility desires to submit a Combined Operating License (COL) application in 2008 and to support the Department of Energy's (DOE's) Nuclear Power 2010 initiative. A schedule for the ESBWR design certification review will be published after the application is received and accepted for review.

- received by letter dated January 3, 2005, formal notification by Atomic Energy of Canada Limited (AECL) Technologies, Inc. of its intent to submit an application for design certification for the ACR-700 by December 2005. AECL requested NRC to complete the design certification within 31-36 months. AECL also requested to meet with the NRC staff to discuss the optimization of the design certification review and Dominion Energy's North Anna combined license application. A schedule for the ACR-700 design certification review will be published after the application is received and accepted for review.
- approved issuing a 40-year license renewal to Dominion Generation for its dry-cask independent spent fuel storage installation at the Surry nuclear power plant in Surry, Virginia, after appropriate license conditions are developed. This will be the first license renewal granted to a dry-cask spent fuel storage installation. In approving the new license for a duration of 40 years, the Commission approved granting Dominion an exemption from NRC regulations that specify a 20-year license term and directed the NRC staff to explore potential rulemaking to change the license duration in NRC regulations. The Commission also directed the staff to approve the same exemption in its ongoing review of the license renewal application of Progress Energy for its dry-cask spent fuel storage installation at the H.B. Robinson nuclear plant in South Carolina.
- dispatched on January 7, 2005, a special inspection team to enhance understanding of the circumstances surrounding problems with two pumps which led to the shutdown of the Perry Nuclear Power Plant on Thursday, January 6, 2005. The plant, operated by FirstEnergy Nuclear Operating Company, is located in Perry, Ohio. The four-person NRC inspection team will monitor the utility's investigation and repair activities. The NRC resident inspectors have also been following the event. The NRC special inspection team will also review the December 23 incident as part of its inspection. An inspection report will be issued following the completion of the NRC inspection.
- received the decision from ASLB on November 22, 2004, determining that some late-filed contentions were admissible in the LES hearing related to the gas centrifuge uranium enrichment plant proposed to be located in Eunice, New Mexico. Two parties (New Mexico Environment Department (NMED) and Nuclear Information and Resource Service/Public Citizen (NIRS/PC)) filed late-filed contentions in October 2004. The ASLB found that NMED's late-filed contentions were not admissible, but four of NIRS/PC's late-filed contentions were admissible.
- conducted the first quarterly management meeting with USEC Inc. on November 29, 2004, to discuss management issues related to the uranium enrichment facility proposed to be located in Piketon, Ohio. Issues discussed during the meeting included the 30-month licensing schedule, especially the 18 month period to complete the staff's safety, safeguards, and environmental reviews and the hearing status.
- published in the Federal Register on December 8, 2004 (69 FR 71081), a notice of issuance of a site-specific license for the Idaho Spent Fuel (ISF) Facility, in accordance with 10 CFR Part 72, to the Foster Wheeler Environmental Corporation to construct and

operate an independent spent fuel storage installation at the Idaho National Engineering and Environmental Laboratory (INEEL). The ISF Facility will provide repackaging and interim dry storage of specific types and quantities of spent nuclear fuel (SNF) currently stored by DOE at the INEEL. This also allows for partial fulfillment of the 1995 Settlement Agreement among DOE, the State of Idaho, and the U.S. Navy.

- issued, on November 30, 2004, a 10 CFR Part 71 Certificate of Compliance for a new transportation package (Model No. RAJ-II) designed for the shipment of fresh reactor fuel made from reprocessed weapons-grade uranium. This is the first transportation package licensed domestically for this type of material, which is characterized by elevated levels of U-236. This package is part of the U.S./Russia "Swords to Plowshares Program," which supports non-proliferation and downblending of 33 metric tons of highly enriched weapons-grade uranium into low-enriched fuel for commercial reactors.
- published, on December 2, 2004, NUREG-1811, "Draft Environmental Impact Statement for an Early Site Permit (ESP) at the North Anna ESP Site," (DEIS). The application for the ESP was submitted by letter dated September 25, 2003, pursuant to 10 CFR Part 52 and included a site redress plan. If the site redress plan is incorporated in an approved ESP, the applicant may carry out certain site preparation work and preliminary construction activities. The NRC staff will hold a public meeting on January 19, 2005, to present an overview of the DEIS and to accept public comments on the document.
- approved, on December 6, 2004, a method for all licensees of pressurized water reactors (PWRs) to use in analyzing safety-related containment sumps that are used in ensuring adequate core cooling following certain accidents. This action provides an acceptable method for licensees to complete evaluations requested by the NRC in Generic Letter 2004-02 to address a potential susceptibility of PWR sump screens to debris blockage and to ensure that post-accident debris blockage will not impede or prevent the operation of safety systems. This action supports the work to close out Generic Safety Issue (GSI) 191, "Assessment of Debris Accumulation on PWR Sump Performance."
- approved a final rule on December 8, 2004, amending 10 CFR 30.34 to require a portable gauge licensee to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever portable gauges are not under the control and constant surveillance of the licensee.
- denied, on December 10, 2004, applications to renew the licenses of the Safety Light Corporation in Bloomsburg, Pennsylvania. The Commission issued an Order suspending the licenses when they expire at the end of December 2004. The NRC issued the Order because Safety Light's failure to make the required decommissioning trust fund payments at a set schedule was willful and adversely affected the safe conduct of activities under the company's licenses.

- approved a final rule on December 14, 2004, amending 10 CFR Part 50, Appendix E, to revise current regulations on NRC approval of licensee changes to emergency action levels and clarify emergency exercise frequency requirements for co-located licensees.

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

Sincerely,

**/RA/**  
Nils J. Diaz

Enclosure:  
Monthly Report

cc: Senator Thomas R. Carper



Identical letter sent to:

The Honorable George V. Voinovich, Chairman  
Subcommittee on Clean Air, Climate Change,  
and Nuclear Safety  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510  
cc: Senator Thomas R. Carper

The Honorable Ralph M. Hall, 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 Pete V. Domenici, Chairman  
Subcommittee on Energy and Water Development  
Committee on Appropriations  
United States Senate  
Washington, D.C. 20510  
cc: Senator Harry Reid

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

The Honorable James M. Inhofe, Chairman  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510  
cc: Senator James Jeffords

The Honorable Joe Barton, Chairman  
Committee on Energy and Commerce  
United States House of Representatives  
Washington D.C. 20515  
cc: Representative John D. Dingell

MONTHLY STATUS REPORT ON THE  
LICENSING ACTIVITIES AND REGULATORY DUTIES OF THE  
UNITED STATES NUCLEAR REGULATORY COMMISSION

**NOVEMBER 2004**

Enclosure



## TABLE OF CONTENTS<sup>1</sup>

I.	Implementing Risk-Informed Regulations . . . . .	2
II.	Revised Reactor Oversight Process . . . . .	2
III.	Status of Issues in the Reactor Generic Issue Program . . . . .	3
IV.	Licensing Actions and Other Licensing Tasks . . . . .	3
V.	Status of License Renewal Activities . . . . .	10
VI.	Status of Review of Private Fuel Storage, Limited Liability Corporation's Application for a License to Operate an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians . . . . .	11
VII.	Enforcement Process and Summary of Reactor Enforcement by Region . . . . .	12
VIII.	Power Reactor Security Regulations . . . . .	13
IX.	Power Upgrades . . . . .	14
X.	Status of the Davis-Besse Nuclear Power Station . . . . .	15

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<sup>1</sup>Note: The period of performance covered by this report includes activities occurring between the first and last day of November 2004. The transmittal letter to Congress accompanying this report may provide more recent information in order to keep Congress fully and currently informed of NRC's licensing and regulatory activities.

## **I Implementing Risk-Informed Regulations**

On November 22, 2004, the NRC published a final rule, 10 CFR 50.69, "Risk-Informed Categorization and Treatment of Structures, Systems, and Components (SSCs) for Nuclear Power Reactors" (69 FR 68008). This new regulation can be voluntarily adopted by nuclear power plant operators. It establishes an alternate set of requirements incorporating up-to-date analytic tools and risk insights to enhance plant safety by enabling nuclear power plant licensees to determine more precisely the safety significance of SSCs. If licensees adopt the change, some SSCs of "low safety significance" would be subject to less stringent requirements than currently exist, although they must remain capable of performing their safety-related functions. Conversely, some SSCs of greater safety significance would be subject to new requirements. The NRC received about 200 public comments during the agency's rulemaking process. Each comment was reviewed in detail and was incorporated, as appropriate, into the revised regulation. The Advisory Committee on Reactor Safeguards reviewed the changes in June 2004 and had no objections to their going into effect.

To ensure the new regulations are implemented properly, the NRC developed, for trial use, Regulatory Guide 1.201, "Guidelines for Categorizing Structures, Systems and Components in Nuclear Power Plants According to Their Safety Significance." The regulatory guide is available on the NRC's public Web site.

## **II Revised Reactor Oversight Process**

The NRC continues to implement the Reactor Oversight Process (ROP) at all nuclear power plants. The NRC continues to meet with interested stakeholders on a periodic basis to collect feedback on the efficacy of the process and consider the feedback in future ROP refinements. Recent activities include the following:

- On November 2 and 3, 2004, NRC staff briefed representatives from the Vermont State Government and Vermont and New Hampshire Congressional Delegations via telephone on the preliminary results of the Vermont Yankee Pilot Engineering Inspection.
- On November 17, 2004, NRC staff hosted the monthly public meeting on the Mitigating Systems Performance Index (MSPI) at the Headquarters Office. Meeting participants discussed comments received on MSPI guidance documents and focused on open technical comments from the October 2004 meeting. Additional discussion items included staff milestones for developing appropriate MSPI inspection guidance, review of MSPI basis documents, and status of the MSPI workshop currently scheduled for February 2005.
- On November 18, 2004, NRC staff hosted an ROP public meeting at NRC headquarters. The staff provided a status overview of Significance Determination Process (SDP) timeliness issues, as well as a discussion on draft aspects of the Maintenance Rule SDP. Industry representatives provided an update on their review of

the safety system functional failure performance indicator (PI) and together with the staff discussed the status of the work on the initiatives for improving the PIs for scrams with loss of normal heat removal and reactor coolant system leakage. Additionally, meeting participants discussed open and new PI frequently asked questions (FAQ's).

### **III Status of Issues in the Reactor Generic Issue Program**

Resolution of the issues in the Reactor Generic Issue Program continues to be on track in accordance with the schedules previously submitted.

### **IV Licensing Actions and Other Licensing Tasks**

Operating power reactor licensing actions are defined as orders, license amendments, exemptions from regulations, relief from inspection or surveillance requirements, topical reports submitted on a plant-specific basis, notices of enforcement discretion, or other actions requiring NRC review and approval before they can be implemented by licensees. The FY 2005 NRC Performance Plan incorporates three output measures related to licensing actions -- number of licensing actions completed per year, age of the licensing action inventory, and size of licensing action inventory.

Other licensing tasks for operating power reactors are defined as licensee responses to NRC requests for information through generic letters or bulletins, NRC responses to 2.206 petitions, NRC review of generic topical reports, responses by the Office of Nuclear Reactor Regulation to regional requests for assistance, NRC review of licensee 10 CFR 50.59 analyses and FSAR updates, or other licensee requests not requiring NRC review and approval before they can be implemented by licensees. The FY 2005 NRC Performance Plan incorporates one output measure related to other licensing tasks -- number of other licensing tasks completed.

In FY 2004, several high priority activities, such as power grid reliability, changes to nuclear facility security plans, safeguards contingency plans, and guard force training and qualification plans, resulted in the NRC reprogramming resources to accommodate the additional work. One of the programs affected by the reprogramming of resources was operating power reactor licensing actions. As a result, at the end of FY 2004, the size of the licensing action inventory exceeded the goal of # 1000 and the goal of completing at least 96 percent of the licensing actions in less than or equal to one year was not met. The effects of the reprogramming will continue into FY 2005 and FY 2006. The licensing actions inventory and timeliness goals for FY 2005 will be relaxed. Additional resources will be allocated in FY 2006 to work down the inventory and improve timeliness to meet the original timeliness and inventory goals.

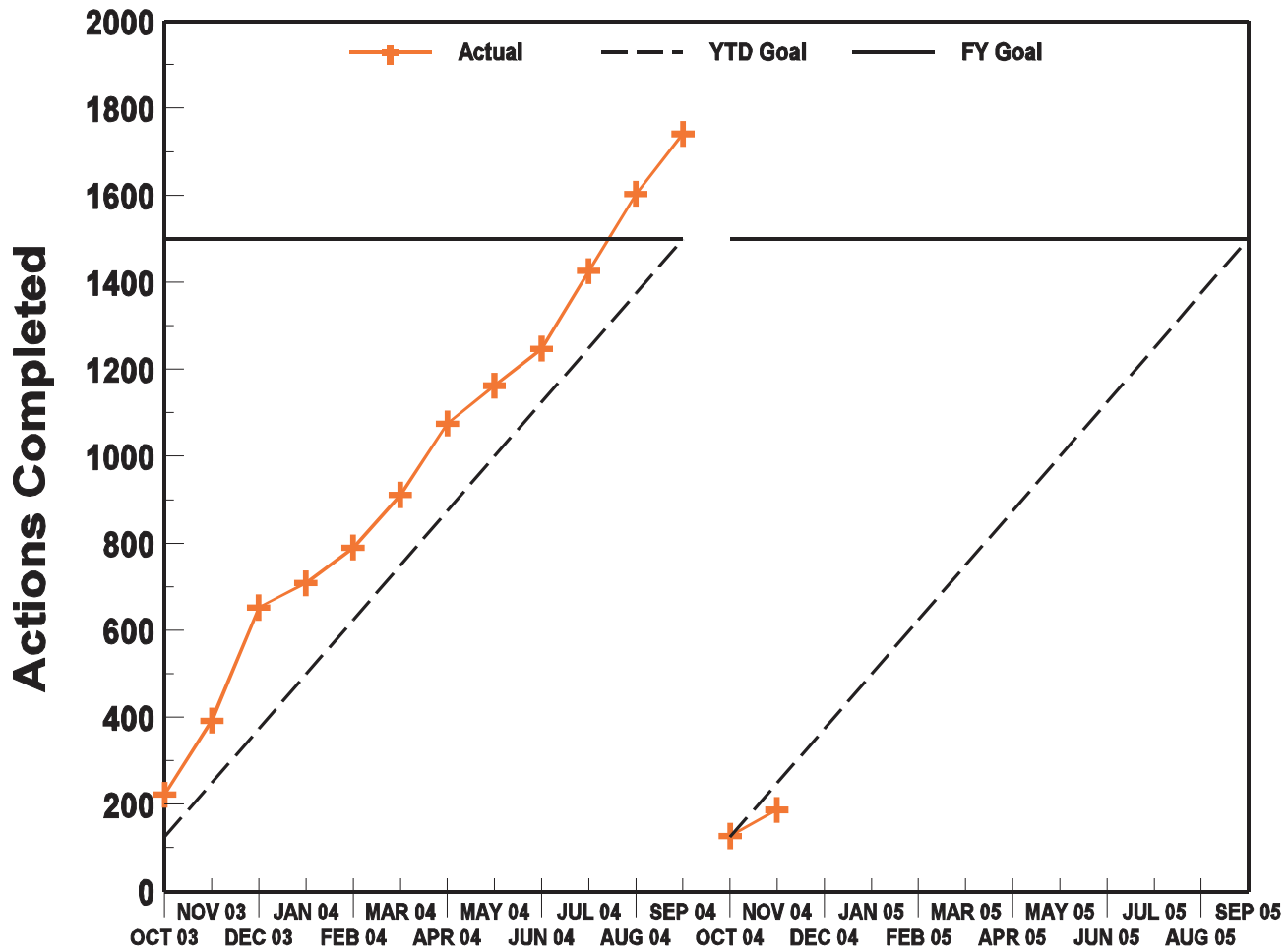
The actual FY 2003 and FY 2004 results, the FY 2005 goals, and the actual FY 2005 results, as of November 30, 2004, for the four NRC Performance Plan output measures for operating power reactor licensing actions and other licensing tasks are shown in the table below.

PERFORMANCE PLAN				
Output Measure	FY 2003 Actual	FY 2004 Actual	FY 2005 Goals	FY 2005 Actual (thru 11/30/2004)
Licensing actions completed/year	1774	1741	\$ 1500	187
Age of licensing action inventory	96% # 1 year; and 100% # 2 years	91%# 1 year; and 100% # 2 years	90% # 1 year; and 100% # 2 years	87%# 1 year; and 99 % # 2 years
Size of licensing action inventory	1296	1135	# 1200	1175
Other licensing tasks completed/year	500	671	\$ 500	57

The charts on the following pages show NRC's FY 2005 trends for the four operating power reactor licensing action and other licensing task output measure goals:

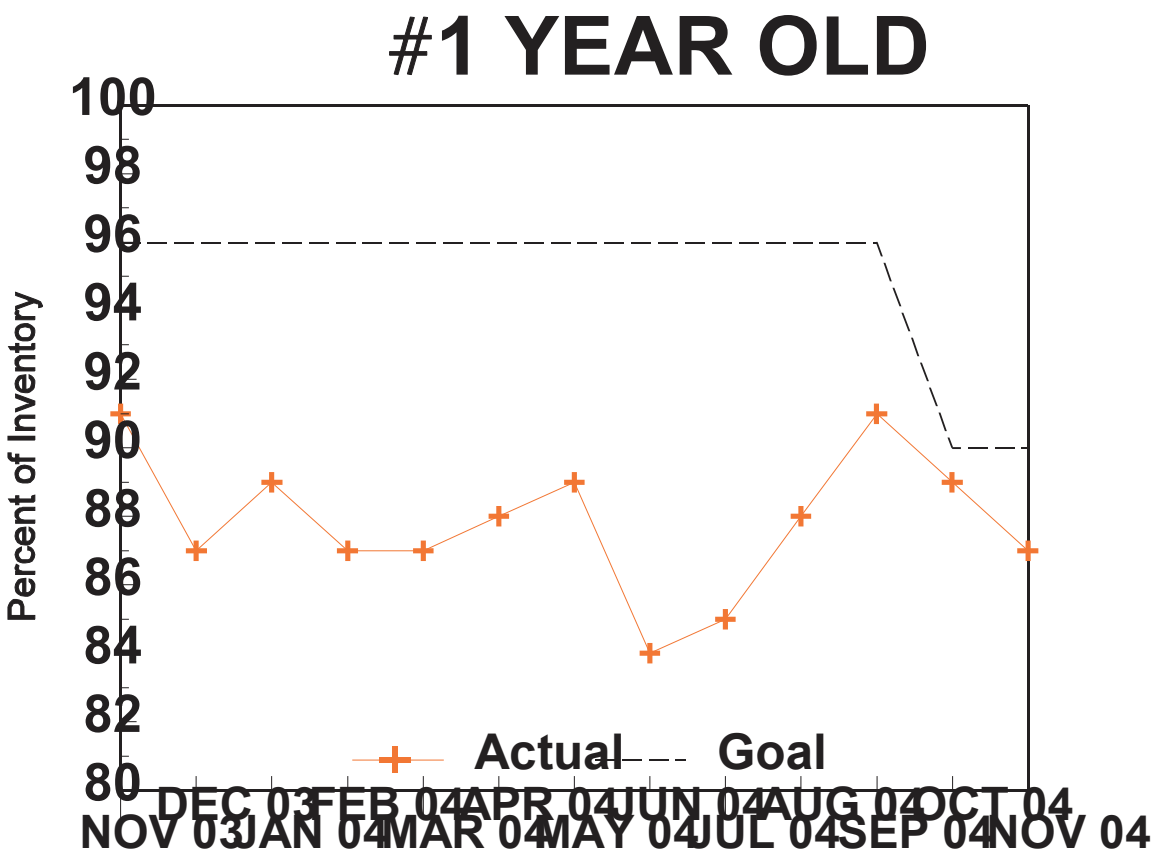
# Nuclear Reactor Safety - Reactor Licensing

Performance Plan Target: Completed Licensing Actions



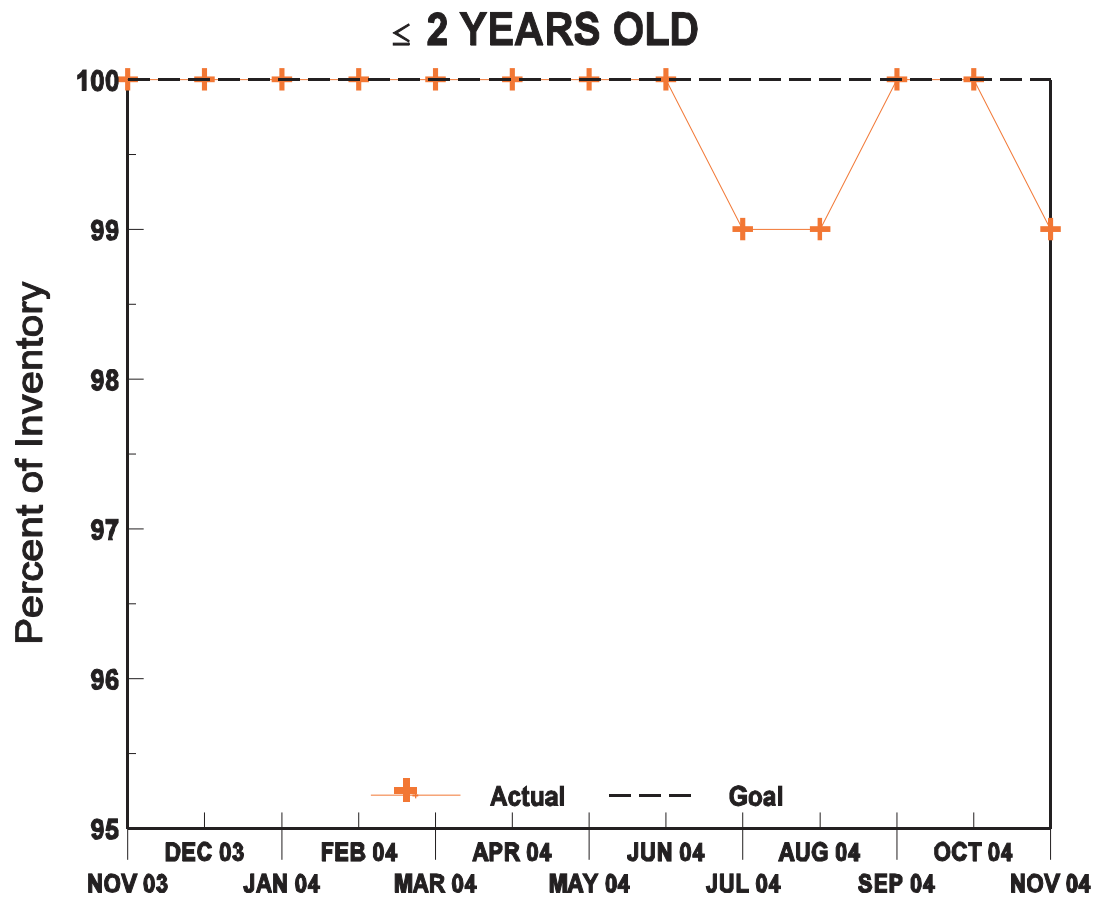
# Nuclear Reactor Safety - Reactor

Performance Plan Target: Age of Licensing Action Inventory



# Nuclear Reactor Safety - Reactor Licensing

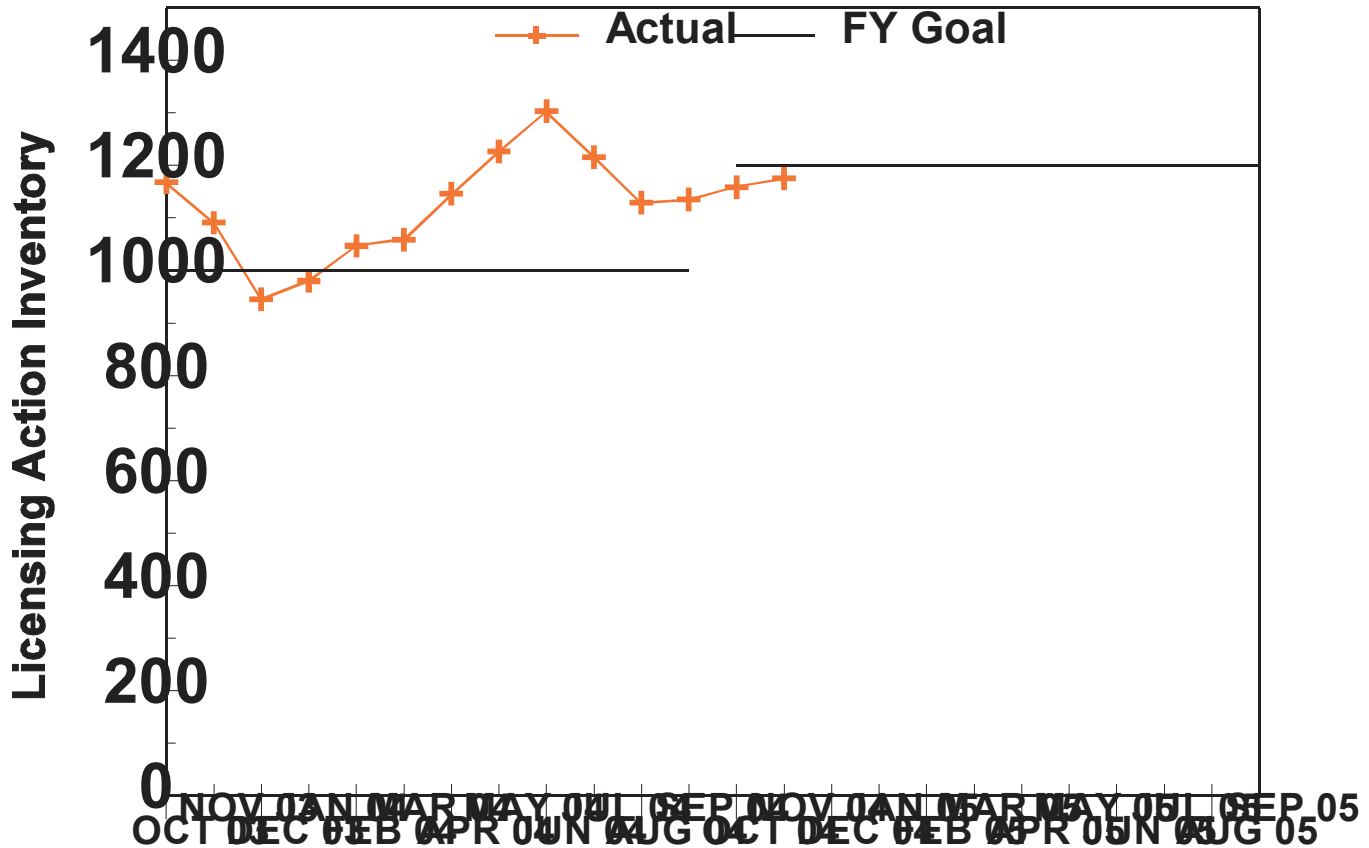
## Performance Plan Target: Age of Licensing Action Inventory



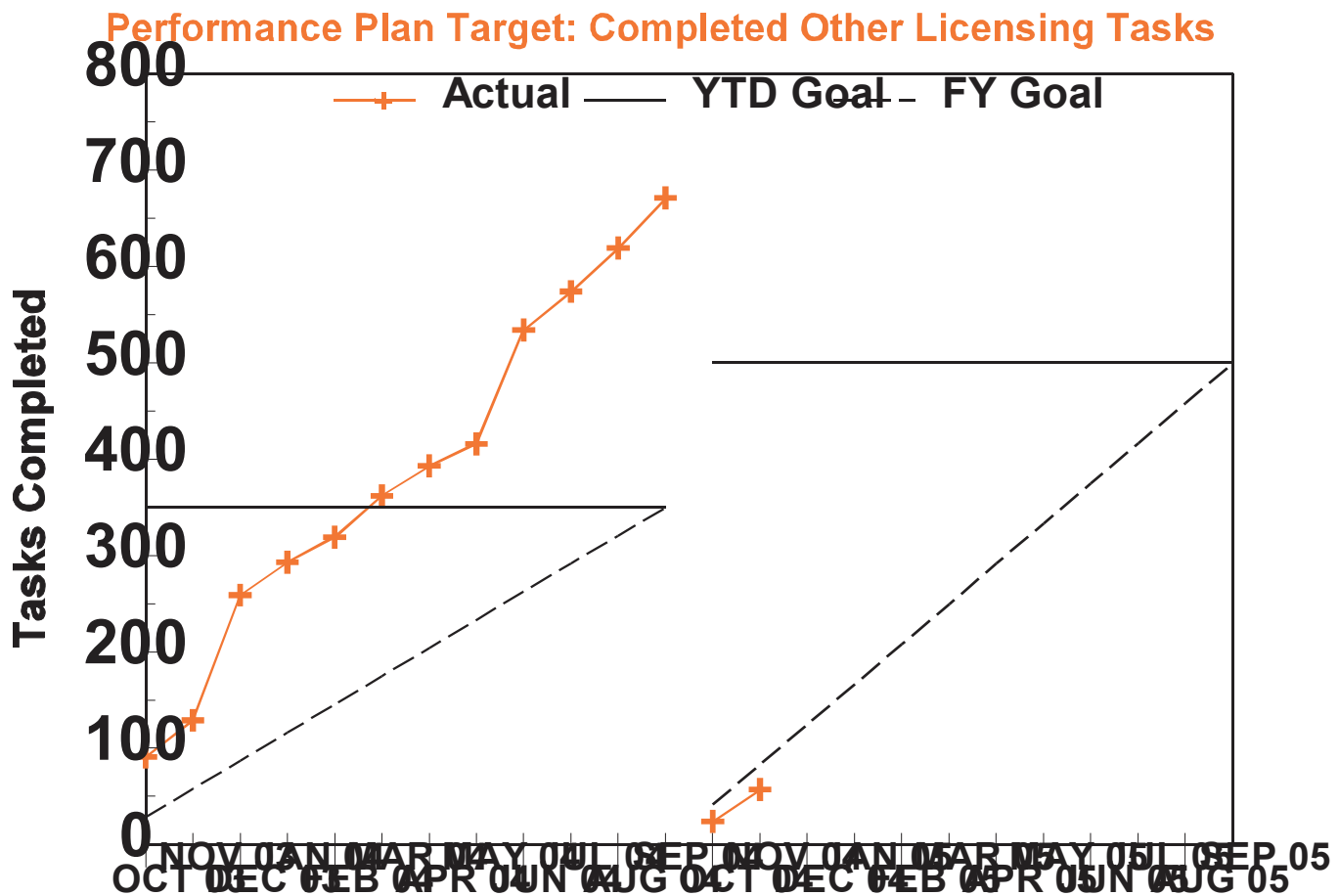


# Nuclear Reactor Safety - Reactor

## Performance Plan: Size of Licensing Action Inventory



# Nuclear Reactor Safety - Reactor



## **V      Status of License Renewal Activities**

### Farley, Units 1 and 2, License Renewal Application

The Farley license renewal application is currently under review. The draft supplemental environmental impact statement (SEIS) was issued for public comment in August 2004, and the comment period ended in November 2004. The staff is addressing the comments received and is preparing to issue the final SEIS in March 2005. The draft safety evaluation report was issued in October 2004, and the applicant's comments on the report are due in December 2004.

### Arkansas Nuclear One, Unit 2, License Renewal Application

The Arkansas Unit 2 license renewal application is currently under review. The draft SEIS was issued for public comment in August 2004, and the comment period ended in November 2004. The staff is addressing the comments received and is preparing to issue the final SEIS in April 2005. The draft safety evaluation report was issued in November 2004, and the applicant's comments on the report are due in December 2004.

### Cook, Units 1 and 2, License Renewal Application

The Cook license renewal application is currently under review. The draft SEIS was issued for public comment in September 2004, and the comment period ends in December 2004. The safety evaluation report, identifying any remaining open items, is scheduled to be issued in December 2004.

### Browns Ferry, Units 1, 2, and 3, License Renewal Application

The Browns Ferry license renewal application is currently under review. The draft SEIS is scheduled to be issued for public comment in December 2004, and the safety evaluation report, identifying any remaining open items, is scheduled to be issued in August 2005.

### Millstone, Units 2 and 3, License Renewal Application

The Millstone license renewal application is currently under review, and the staff is preparing requests for additional information. The draft SEIS is scheduled to be issued for public comment in December 2004, and the safety evaluation report, identifying any remaining open items, is scheduled to be issued in February 2005. A request for hearing was received in response to the NRC's notice of opportunity for hearing, and an Atomic Safety and Licensing Board (ASLB) was established. The ASLB found that none of the petitioner's contentions satisfied the requirements to be admissible for litigation and denied the petition for hearing. The petitioner's motion for reconsideration was denied by the ASLB, and an appeal of the hearing denial is pending with the Commission.

#### Point Beach, Units 1 and 2, License Renewal Application

The Point Beach license renewal application is currently under review, and the staff is preparing requests for additional information. The draft SEIS is scheduled to be issued in January 2005, and the safety evaluation report, identifying any remaining open items, is scheduled to be issued in May 2005.

#### Nine Mile Point, Units 1 and 2, License Renewal Application

The Nine Mile Point license renewal application is currently under review, and the staff is preparing requests for additional information. The draft SEIS is scheduled to be issued in April 2005, and the safety evaluation report, identifying any remaining open items, is scheduled to be issued in June 2005.

#### Brunswick, Units 1 and 2, License Renewal Application

The Brunswick license renewal application is currently under review, and the staff is preparing requests for additional information. The draft SEIS is scheduled to be issued in September 2005, and the safety evaluation report, identifying any remaining open items, is scheduled to be issued in December 2005.

### **VI      Status of Review of Private Fuel Storage, Limited Liability Corporation's Application for a License to Operate an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians**

Litigation continues on the application by Private Fuel Storage, L.L.C. (PFS) for a license to construct and operate an independent spent fuel storage installation (ISFSI) on the Reservation of the Skull Valley Band of Goshute Indians in Skull Valley, Utah. As noted in previous monthly updates, one issue concerning the consequences of an F-16 aircraft crash accident at the proposed facility remains in litigation before the ASLB. Hearings on this matter have been completed.

During this reporting period, the parties filed reply findings with the ASLB on aircraft crash consequence issues. Also during this period, the State of Utah filed a late contention on issues related to whether the proposed Yucca Mountain repository will accept spent fuel canisters from the PFS Facility. It is unclear whether the filing of this contention will have any impact on the completion of litigation.

The Commission currently has under consideration certain matters raised on appeal from prior ASLB decisions. These involve State of Utah's petition for review of the ASLB's rulings on the redaction of proprietary information from the Licensing Board's decisions on financial assurance.

## VII Enforcement Process and Summary of Reactor Enforcement by Region

### Reactor Enforcement by Region

Reactor Enforcement Actions*						
		Region I	Region II	Region III	Region IV	TOTAL
Severity Level I	November 04	0	0	0	0	0
	FY 05 YTD Total	0	0	0	0	0
	FY 04 Total	0	0	0	0	0
	FY 03 Total	0	0	0	0	0
Severity Level II	November 04	0	0	0	0	0
	FY 05 YTD Total	0	0	0	0	0
	FY 04 Total	0	1	0	0	1
	FY 03 Total	0	0	0	0	0
Severity Level III	November 04	0	0	0	0	0
	FY 05 YTD Total	0	0	0	0	0
	FY 04 Total	1	2	4	0	7
	FY 03 Total	2	0	4	0	6
Cited Severity Level IV or GREEN	November 04	0	0	0	0	0
	FY 05 YTD Total	0	0	0	0	0
	FY 04 Total	1	0	2	2	5
	FY 03 Total	1	0	2	1	4
Non-Cited Severity Level IV or GREEN	November 04	55	3	21	39	118
	FY 05 YTD Total	59	46	68	50	223
	FY 04 Total	271	175	290	301	1037
	FY 03 Total	211	164	253	184	812

\* Numbers of violations are based on enforcement action tracking system (EATS) data that may be subject to minor changes following verification. The numbers shown as Severity Level I, II, III or IV refer to the number of Severity Level I, II, III, and IV violations or problems. The monthly totals generally lag by 30 days due to inspection report and enforcement development.

Escalated Reactor Enforcement Actions Associated with the Reactor Oversight Process						
		Region I	Region II	Region III	Region IV	Total
Notices of Violation Related to RED, YELLOW, or WHITE Findings	Nov 04 RED	0	0	0	0	0
	Nov 04 YELLOW	0	0	0	0	0
	Nov 04 WHITE	0	0	0	0	0
	FY 05 YTD Total	0	0	0	0	0
	FY 04 Total	3	4	7	6 <sup>2</sup>	20 <sup>3</sup>
	FY 03 Total	6	1	7	1	15

#### Description of Significant Actions Taken During November 2004<sup>4</sup>

None taken.

### VIII Power Reactor Security Regulations

In response to the terrorist attacks on September 11, 2001, the NRC and the nuclear industry have taken many actions to ensure the security at nuclear power plants. A series of Advisories, Orders, and Regulatory Issue Summaries have been issued to strengthen further the security of NRC-licensed facilities and control of nuclear materials.

Orders were issued on April 29, 2003, to revise the threat against which individual power reactor licensees and category I fuel cycle facilities must be able to defend (design basis threat [DBT]), limit the number of hours that security personnel can work, and enhance training and qualification requirements for security personnel. All licensees submitted the required plans by the April 29, 2004 scheduled date. The NRC staff endorsed appropriate implementing guidance and provided it to the industry so plant and program changes could be completed on schedule. The security plan reviews and appropriate licensing activities were completed by October 29, 2004. All licensees implemented the Orders by October 29, 2004. Implementation of these Orders included employing revised security plans, revised safeguards contingency

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<sup>2</sup> The "FY 04 Total" for Region IV was increased by one based on an error identified during a recent review. Although the "FY 04 Total" for Region IV in the June 2004 Congressional Report correctly documented one White finding, it was discovered that the June 2004 "FY 04 YTD Total" for Region IV was not increased by one.

<sup>3</sup> Since the "FY 04 Total" for Region IV was increased by one (*Refer to Footnote 2.*), the overall "FY 04 Total" was increased by one as well.

<sup>4</sup> Security related enforcement actions are not included in the statistics in the above Tables or in the Description of Significant Actions due to the sensitive nature of security findings.

plans, and revised guard training and qualification plans, and completing any necessary plant modifications.

Orders were issued on October 23, 2003, to all nuclear reactor licensees and research reactor licensees that transport spent nuclear fuel. The licensees subject to the Orders have been issued a specific license by NRC authorizing the possession of spent nuclear fuel and a general license authorizing the transportation of spent nuclear fuel in a transport package approved by the Commission in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR Parts 50 and 71.

In March 2003, the NRC initiated a pilot program for full force-on-force exercises, which used expanded adversary characteristics that were developed as a result of the increased post 9/11 threat. The purpose of the force-on-force exercises is to assess and improve, as necessary, performance of defensive strategies at licensed facilities. Pilot force-on-force exercises were completed at fifteen plants in 2003. The staff provided a paper to the Commission summarizing lessons learned from the force-on-force pilot program and how these lessons could be factored into the full implementation of the force-on-force program. The Commission approved enhanced force-on-force testing, and sixteen transitional force-on-force tests were conducted through October 2004. Beginning in November 2004, the NRC implemented triennial force-on-force testing at each nuclear power plant site, completing the first two sites by mid-December 2004.

To enhance the realism and effectiveness of the force-on-force exercises, the NRC has established fitness and training standards for mock adversary force personnel. Application of these standards provides assurance that the mock adversary force has received appropriate training in offensive tactics and is a credible and challenging adversary. The NRC retains responsibility for oversight of the mock adversary force and evaluation of licensee performance. In addition, measures have been established to minimize any possibility for a conflict of interest with respect to responsibilities for physical protection.

During 2003, the staff suspended the physical protection portion of the baseline inspections in the Reactor Oversight Process. Instead, NRC inspections in the reactor security area were focused on licensee implementation of compensatory measures to address the post-9/11 threat environment. These compensatory measures were required by the Commission's February 25, 2002 Order. In late 2003, the staff developed a revised baseline inspection program for reactor security, taking into consideration the enhanced requirements and the higher threat environment. The staff began implementation of the revised baseline inspection program during the first week of March 2004. Until the DBT Orders were fully implemented, the inspections focused on those elements of the program that had been fully implemented under previous orders, such as access authorization and security force work hour limits. During FY 2005, inspection efforts will focus on verifying implementation of the DBT. Implementation of all elements of the baseline inspection program will commence in 2006.

## **IX Power Upgrades**

The staff has assigned power upgrade license amendment reviews a high priority. The staff considers power upgrade applications among the most significant licensing actions and is therefore conducting power upgrade reviews on accelerated schedules.



There are three types of power uprates. Measurement uncertainty recapture (MUR) power uprates are power uprates of less than 2 percent and are based on the use of more accurate feedwater flow measurement techniques. Stretch power uprates are power uprates that are typically on the order of less than 7 percent and are within the design capacity of the plant. Stretch power uprates require only minor plant modification. Extended power uprates (EPUs) are power uprates beyond the design capacity of the plant and, thus, require major plant modification.

Licensees have been applying for and implementing power uprates since the 1970s as a way to increase the power output of their plants. The staff has been conducting power uprate reviews since then and, to date, has completed 102 such reviews. Approximately 12,650 megawatts-thermal (4217 megawatts-electric) or an equivalent of about four nuclear power plant units has been gained through implementation of power uprates at existing plants. The staff currently has 11 plant-specific power uprate applications under review. The 11 applications under review include 4 stretch power uprates and 7 EPUs. Indian Point Unit 2 stretch power uprate of 3.26% was issued October 28, 2004.

On September 10, 2003, Entergy Nuclear Operations, Inc. submitted a request for an EPU at its Vermont Yankee (VY) plant in Brattleboro, Vermont. In a letter dated October 15, 2004, the NRC informed Entergy that the original forecast review completion date of January 31, 2005, will be delayed by at least several months primarily due to concerns regarding the steam dryer analysis. On October 21 and 22, 2004, the NRC's ASLB heard oral arguments, in Brattleboro Vermont, from the Vermont Department of Public Service (DPS), the New England Coalition (NEC), Entergy, and the NRC staff concerning hearing requests filed by the DPS and the NEC related to the proposed VY EPU.

On November 22, 2004, the ASLB issued a Memorandum and Order granting a hearing to the Vermont DPS and the NEC regarding the VY EPU. The ASLB admitted two contentions by the Vermont DPS, both related to the use of containment overpressure for ensuring adequate net positive suction head for emergency core cooling system pumps. The ASLB also admitted two contentions by the NEC, the first on Large Transient Testing and the second on the seismic and structural integrity of the cooling towers, particularly the alternate cooling system cell.

In July 2004, the staff completed a survey of nuclear power plant licensees to obtain information regarding industry's plans related to power uprate applications. Based on this survey, licensees plan to submit power uprate applications for 16 nuclear power plant units in the next 5 years. These include 7 MUR power uprates, 1 stretch power uprate, and 8 EPUs. Planned power uprates are expected to result in an increase of about 2419 megawatts-thermal (806 megawatts-electric).

## **X      Status of the Davis-Besse Nuclear Power Station**

Interim reports to be provided in March 2005, September 2005, and March 2006.