June 9, 2008

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Madam Speaker:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am submitting the NRC's report on orders that designate new types of information to be protected as "Safeguards Information." This category of protected information relates to security measures for the physical protection of special nuclear material, source material, byproduct material, plant equipment vital to the safety of nuclear production, or utilization facilities. The information in the enclosed report is required to be reported in accordance with Section 147d. of the Atomic Energy Act of 1954, as amended. Some of these orders have been mentioned in various Status Reports to Congress on our licensing activities and regulatory duties. All of the orders were issued as part of the Commission's continuing efforts to ensure that licensees and certificate holders take prudent actions in the current threat environment to protect the public health and safety and the common defense and security.

Sincerely,

/RA/

Dale E. Klein

Enclosure: As stated

Identical letter sent to:

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

The Honorable Richard B. Cheney
President of the United States Senate
Washington, D.C. 20510

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

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

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

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

The Honorable Byron Dorgan
Chairman, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States Senate
Washington, D.C. 20510
cc: Senator Pete V. Domenici

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

U.S. Nuclear Regulatory Commission
Report on Orders Issued to Protect Safeguards Information

Section 147 of the Atomic Energy Act of 1954, as amended, prohibits the unauthorized disclosure of Safeguards Information, which is information about security measures for the physical protection of special nuclear material, source material, byproduct material, plant equipment vital to the safety of nuclear production or utilization facilities. Section 147 directs the U.S. Nuclear Regulatory Commission (NRC) to prescribe such regulations, or issue such orders, as are necessary to prohibit the unauthorized disclosure of Safeguards Information. Paragraph d. of Section 147 also directs the NRC to report to Congress on regulations or orders issued under that Section.

In compliance with this reporting requirement, the NRC reports that, relying in part on its Section 147 authority, it has issued immediately effective orders that expand to some degree the system for protecting Safeguards Information. Some of the orders were issued to parties that have not previously been subject to requirements concerning Safeguards Information, and one of the orders requires that the recipients protect a new type of Safeguards Information. In every case, the principal aim of the order was to ensure that the party to whom the order was issued would take prudent steps in the current threat environment to protect the public health and safety and the common defense and security. The dates of the orders and the parties to whom the orders were issued are listed below.

Security Orders to Licensees Possessing Category III Quantities of Special Nuclear Material
On March 25, 2002, the first in a series of orders was issued to licensees who are authorized to possess Category III quantities of Special Nuclear Material. The orders imposed security measures that are considered Safeguards Information.

Security Orders to Independent Spent Fuel Storage Installations (ISFSI)
On October 16, 2002, the first of a series of orders was issued to licensees who currently store or had near-term plans to store spent fuel in an ISFSI under the general license and specific license provisions of Title 10 of *Code of Federal Regulations* (CFR) Part 72. The orders imposed security measures that are considered Safeguards Information.

Security Orders to Manufacturers and Distributors Who Possess Certain Radioactive Material of Concern
On January 12, 2004, the first in a series of orders was issued to licensees authorized to manufacture or initially transfer items containing radioactive material for sale or distribution and possess certain radioactive material of concern. The orders imposed security measures that are considered Safeguards Information.

Security Orders to Transporters of Radioactive Material in Quantities of Concern (RAMQC)
On July 19, 2005, the first in a series of orders was issued to certain licensees authorized to possess and transfer items containing RAMQC. The orders imposed security measures that are considered Safeguards Information.

Enclosure

Security Orders to New Reactor Design Vendors
On September 12, 2007, orders were issued to new reactor design vendors. The orders imposed protective measures and access requirements for the protection of information related to the potential impacts of aircraft crashes on nuclear power plants. That information was designated by the orders as Safeguards Information.

The orders may be viewed at the following Web address: http://www.nrc.gov/reading-rm/doc-collections/enforcement/security/index.html. The versions that appear on the Web do not contain Safeguards Information.

Types of Information Withheld

All the types of information withheld under the orders identify (1) licensees' or vendors' security measures for the physical protection of special nuclear material, source material, or byproduct material or (2) licensees' or vendors' security measures or analyses for the physical protection of equipment vital to public health and safety or the common defense and security.

Unauthorized Disclosure Could Have Adverse Impact

The information withheld could be of considerable value to a potential saboteur in considering or planning sabotage. Therefore, the public disclosure of these types of information could significantly increase the probability of the theft, diversion, or sabotage of radioactive materials or damage to equipment vital to public health and safety or the common defense and security.

Assurance That Only the Minimum Amount of Information Was Withheld

The withholding of these types of Safeguards Information does not deny the public basic information concerning the level of protection afforded at a nuclear facility. Moreover, all of these orders are available to the public in the Federal Register or on the Web in versions that do not contain the Safeguards Information. The NRC staff carefully reviewed the documents to ensure that only the minimum amount of information was withheld from the public versions. Moreover, each of the orders provided that any person adversely affected by the order could request a hearing on it, and under 10 CFR 2.709(e) of the Commission's regulations, parties to hearings can gain access to Safeguards Information if the presiding officer determines that such access is necessary to a proper decision in the proceeding.