

#38936

Consumers Energy Fax Cover Sheet

LEGAL DEPARTMENT

Date: May 23, 2002

Pages + cover: 6

To: Nuclear Regulatory Commission Operations Center

Company:

Fax: (301) 816-5151

From: Arunas T. Udry

Fax: (517) 788-0768

Phone: (517) 788-2513

Message: Report Under 10 CFR 21: Reactor Pressure Vessel Head

IMPORTANT NOTICE

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If the transmission is incomplete or illegible, please call:

Name: Patti Tichenor

Telephone: (517) 788-1661

The logo for Consumers Energy, featuring the company name in a bold, sans-serif font inside a stylized, dark oval shape.

#38936

A CMS Energy Company

General Offices:
212 West Michigan Avenue
Jackson, MI 49201

May 23, 2002

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Mail Stop O-P1-17
Washington, D.C. 20555-0001SUBJECT: Report Under 10 CFR 21: Reactor Pressure Vessel Head

Dear Sir:

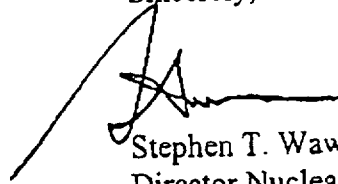
Consumers Energy Company (Consumers) has entered into an agreement with Framatome ANP, Inc. (FRA-ANP) and First Energy Services Company, for itself and as agent for First Energy Nuclear Operating Company, The Illuminating Company, and Toledo Edison Company (collectively "First Energy"), to sell the Midland Unit 2 reactor pressure vessel (RPV) head to FRA-ANP for use at the Davis-Besse Nuclear Power Station. Upon consummation of that agreement which applied 10 CFR Part 21 to the transaction, Consumers determined that a conservative reading of 10 CFR Part 21 indicated that there could have been "failure to comply" within the meaning of 10 CFR Part 21, e.g., because since 1986 when Midland Unit 2 was cancelled, the RPV head has not been maintained in accordance with the requirements of 10 CFR Part 50, Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants." Consumers is not in a position to make a definitive finding as to whether a substantial safety hazard was created. Earlier today, Consumers submitted the attachment to this letter as the initial notification of that condition by facsimile to NRC Operations Center at FAX: 301-816-5151 and verified receipt of this notice by telephone to the NRC Operations Center at 301-816-5100. This letter and the attached report are submitted by Consumers to fulfill the requirement for a written report to provide the information requested by 10 CFR § 21.21(d)(4).

Also, in an abundance of caution, in accordance with 10 CFR § 21.21(b), Consumers has informed FRA-ANP and First Energy that Consumers does not have the capability to perform an evaluation to determine whether any deviation relating to the Midland Unit 2 RPV head exists.

Consumers understands that FRA-ANP and First Energy, as the purchasers, will conduct any evaluation required pursuant to 10 CFR § 21.21(b) and undertake any needed corrective action.

Should you have any questions regarding this report, please feel free to contact me at (616) 764-2994.

Sincerely,



Stephen T. Wawro
Director Nuclear Assets

- c: Robert W. Schrauder,
First Energy Nuclear Operating Company
(Referral For Evaluation Pursuant to 10 CFR 21.21(b))

**REPORT MADE PURSUANT TO 10 C.F.R. § 21.21
BY CONSUMERS ENERGY COMPANY
May 23, 2002**

(i) Name and address of the individual or individuals informing the Commission.

- i. Stephen T. Wawro
Director Nuclear Assets
Consumers Energy Company
212 West Michigan Avenue
Jackson, Michigan 49201

(ii) Identification of the facility, the activity, or the basic component supplied for such facility or such activity within the United States which fails to comply or contains a defect.

- ii. Consumers Power Company (now Consumers Energy Company)

("Consumers") was the holder of Construction Permits CPPR-81 and CPPR-82 for the Midland Plant, Units 1 and 2 ("Midland"), Docket Nos. 50-329 and 50-330. The units were cancelled on July 1, 1986 and the construction permits were revoked on December 18, 1986. Prior to that time, Consumers had procured a number of components for that facility in accordance with a quality assurance program meeting the requirements of 10 C.F.R. Part 50, Appendix B. Among such components was a reactor vessel head for Midland Unit 2. As Consumers did not intend to operate the Midland units, it abandoned a number of components in-place, terminated its quality assurance program for Midland, ceased applying the requirements of Appendix B to components it had procured for Midland, and did not systematically retain records associated with the vessel head, including its procurement, any nonconformances or any corrective actions. Since that time, the vessel head has not been maintained in accordance with a Quality Assurance Program.

In May 2002, Framatome ANP, Inc. on behalf of First Energy Nuclear Operating Company agreed to purchase the Midland vessel head for possible use at the Davis-Besse facility. Inasmuch as the vessel head meets the definition of "basic component" contained in 10

- 2 -

C.F.R. § 21.3 as it is a component that affects a nuclear power plant's safety function necessary to assure the integrity of the reactor coolant pressure boundary, the procurement document specified that the provisions of Part 21 apply.

(iii) Identification of the firm constructing the facility or supplying the basic component which fails to comply or contains a defect.

iii. Consumers is supplying the basic component which fails to comply and which may contain a defect.

(iv) Nature of the defect or failure to comply and the safety hazard which is created or could be created by such defect or failure to comply.

iv. Consumers did not maintain the vessel head under a Quality Assurance Program and does not have records regarding the serviceability and suitability of the vessel head at another nuclear facility, *e.g.*, the suitability of design, the quality assurance program under which it was designed, constructed, handled, shipped and stored, procurement document control, whether the components met their procurement documents, whether appropriate inspections were conducted and the results, whether materials were controlled, and the adequacy of any corrective action. Consumers presently does not have the expertise necessary to assess the consequences of this condition and whether the reactor vessel head has any defect and does not know the circumstances of its intended use at the buyer's facility.

(v) The date on which the information of such defect or failure to comply was obtained.

v. This situation arose on May 22, 2002, the date which the procurement document specified the applicability of Part 21.

(vi) In the case of a basic component which contains a defect or fails to comply, the number and location of all such components in use at, supplied for, or being supplied for

- 3 -

one or more facilities or activities subject to the regulations in this part.

vi. The report only applies to the reactor vessel head being procured for possible use at the Davis-Besse facility.

(vii) The corrective action which has been, is being, or will be taken; the name of the individual or organization responsible for the action; and the length of time that has been or will be taken to complete the action.

vii. Consumers has notified the purchaser pursuant to 10 C.F.R. § 21.21(b) that it does not have the capability to perform the evaluation to determine if a defect exists. The purchaser has agreed to evaluate this condition and make a determination on the suitability of the reactor vessel head for its potential intended use and any required corrective or other necessary actions, including its reportability.

(viii) Any advice related to the defect or failure to comply about the facility, activity, or basic component that has been, is being, or will be given to purchasers or licensees.

viii. None.