

June 9, 2003

Mr. Paul Gunter
Nuclear Information and Resource Service
1424 16th St. NW, Suite 404
Washington, D.C. 20036

Dear Mr. Gunter:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) to your letter of February 14, 2003. Your letter requested clarification as to the use of NRC Regulatory Issue Summary (RIS) 2001-02, "Guidance on Risk-Informed Decisionmaking in License Amendment Reviews," specifically with regard to the decision to not require Davis-Besse Nuclear Power Station to shut down on December 31, 2001, in order to perform an inspection of its control rod drive mechanism (CRDM) penetrations for cracking. Your letter also requested clarification on certain Commission statements made during a February 4, 2003, Commission meeting, specifically those of then Chairman Meserve regarding the use of Regulatory Guide (RG) 1.174, "An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis."

In order to respond to your question, I would like to provide some background information. The NRC issued NRC Bulletin 2001-01, "Circumferential Cracking of Reactor Pressure Vessel Head Penetration Nozzles," which requested licensees with plants that were considered highly susceptible to CRDM nozzle cracking to either commit to shut down on or before December 31, 2001, and inspect or provide, their basis for concluding that the applicable regulatory requirements would continue to be met until the inspections were performed.

In response to NRC Bulletin 2001-01, the licensee for Davis-Besse submitted a justification for operation during the period from December 31, 2001 to February 16, 2002. The staff decided to use the risk-informed approach, described in RG 1.174, to review the licensee's justification for operation beyond December 31, 2001. The use of the risk-informed approach is consistent with the Commission's policy statement on the use of probabilistic risk assessment (PRA) which states that, "The use of PRA technology should be increased in all regulatory matters to the extent supported by the state-of-the-art in PRA methods and data." Clearly, RG-1.174 was originally written for voluntary, risk-informed licensee submittals and the Davis Besse bulletin response was not such a voluntary, risk-informed submittal. This fact led to a misunderstanding of how the staff review was actually conducted and that misunderstanding was unfortunately conveyed to you at the Commission meeting. Although RG-1.174 was originally written for voluntary, risk-informed submittals, it also encourages the use of the risk-informed approach beyond voluntary, risk-informed submittals. RG-1.174 specifically states, "the principles, process, and approach discussed herein [RG-1.174] also provide useful guidance for the application of risk information to a broader set of activities than plant-specific changes to a plant's LB [licensing basis]." The staff was therefore permitted, but not required, to use a risk-informed approach (i.e., use of the principles, processes and approaches in RG-1.174) when addressing the Davis Besse bulletin response.

The goal of the Commission is to make good technical and regulatory decisions in the best interest of the public. RG-1.174 is one of the tools available to the staff to help make good decisions. The decision to use a risk-informed approach was influenced in this case, and will be influenced in future cases, by the circumstances, principally the availability of traditional engineering information and methods, existing guidance documents and the availability of PRA methods and data to shed additional light on the decision to be made.

The Commission expects the staff to document the safety rationale for decisions. Unfortunately, in the Davis Besse case, the staff's safety rationale was not formally documented until a letter was issued on December 3, 2002 (ADAMS ML023300539). The late documentation was an oversight and is addressed in the Lessons Learned Task Force (LLTF) Report (ADAMS ML022760414).

In summary, the staff appropriately employed the integrated risk-informed decision making approach described in RIS 2001-02 and RG 1.174, consistent with Commission policy, in its review of the licensee's basis for continued plant operation beyond December 31, 2001. The Commission continues to endorse this approach used by the staff. I appreciate the opportunity to clarify this matter.

Sincerely,

/RA/

Nils J. Diaz