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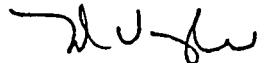
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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

October 14, 2003

MEMORANDUM TO: Alexander P. Murray, Senior Chemical Process Engineer  
Division of Fuel Cycle Safety and Safeguards

FROM: Martin J. Virgilio, Director   
Office of Nuclear Material Safety and Safeguards

SUBJECT: FINAL DECISION SUPPLEMENT: DIFFERING PROFESSIONAL VIEW  
ON CHEMICAL CONSEQUENCES AT THE PROPOSED MIXED OXIDE  
(MOX) FUEL FABRICATION FACILITY (NMSS-DPV-2003-01)

In a document dated February 24, 2003, you filed a Differing Professional View (DPV), which discusses chemical consequences from potential chemical events at the proposed Mixed Oxide (MOX) fuel fabrication facility. By memorandum dated March 3, 2003, I established an ad hoc panel to review the DPV in accordance with Management Directive 10.159.

The review panel issued its findings and recommendations in a memorandum to the Director, Office of Nuclear Material Safety and Safeguards (NMSS), dated May 9, 2003. In a memorandum to you dated June 7, 2003, I issued my Final Decision on the DPV, and provided you with a copy of the report.

The review panel made four recommendations. In my June 7, 2003, memorandum to you, I issued final decisions on Recommendations 2, 3, and 4 of this DPV. However, since this DPV dealt with matters closely related to matters in DPV-NMSS-2002-03, "Modeling Chemical Consequence Effects for Determining Safety Requirements at the Proposed Mixed oxide (MOX) Fuel Fabrication Facility," I deferred a decision and action on Recommendation 1 until I had an opportunity to evaluate and consider the implications of the possible interrelationships between the recommendations of the other DPV panel and Recommendation 1 of this DPV.

Review Panel Recommendation 1 was as follows:

1. Item CS-5 should be reopened or a new open item be established to request that the applicant provide additional information to resolve conflicting information provided in the Revised Construction Application Request (RCAR) and documented in the meeting minutes. The applicant should understand that hazardous chemicals which would affect the safety of licensed material and thus present an increased radiological risk are regulated by the NRC, even when the dose is below the 10 CFR 70.61 performance criteria. The applicant should document the preliminary analyses and data in the RCAR to clearly support its conclusions that no safety controls outside the control room are needed for identified hazardous chemicals that would affect the safety of licensed material and thus present an increased radiological risk (including the chemicals and the resulting doses), and confirm that this category of chemical hazards will be analyzed as part of the Independent Safety Analysis (ISA) as indicated in the RCAR and required by 10 CFR 70.62(c)(1)(iii). This documentation should be reflected in the Safety Evaluation Report.

The Panel Report in DPV-NMSS-2002-03 was issued on September 30, 2003, and a copy of that report and my decision on that DPV have been provided to you separately. I have had an opportunity to evaluate and consider the recommendations of both DPV panels, and this memorandum documents my final decision on Recommendation 1 of NMSS-DPV-2003-01. It is my view that there is not a direct link between the recommendations of the two panels. With regard to Recommendation 1, I am not persuaded, by the information presented, that Item CS-5 should be reopened or a new open item established to request that the applicant provide additional information. However, I have requested that the Director, Division of Fuel Cycle Safety and Safeguards (FCSS) ensure that adequate information has been supplied in the application to support the safety rationale for all chemicals regulated by NRC. You are being provided separately with a copy of my memorandum to the Director, FCSS.

I want to thank you for your participation in the Differing Professional View process. An open and thorough debate about how we carry out our regulatory programs is essential to keeping these programs effective.

cc: R. Pierson, FCSS