

conditions have been met. As basis for the request to have the NRC take enforcement actions against the licensee, the Petitioners stated that FirstEnergy has failed to complete commitments related to the NRC's 50.54(f) design basis letter (issued on October 9, 1996), and referred to numerous design basis violations dating back to plant licensing (corresponding to Requests 1 and 2 in the Petitioners' August 25 letter). The Petitioners also requested that the NRC suspend the Davis-Besse license and prohibit plant restart until all design basis deficiencies identified in response to the NRC's 50.54(f) design basis letter are adequately addressed, the plant probabilistic risk assessment (PRA) is updated to reflect design flaws, and no systems are in a "degraded but operable" condition (corresponding to Requests 3, 4, and 5 in the Petitioners' August 25 letter).

In a letter dated October 7, 2003, the NRC informed the Petitioners that the issues in the Petition were accepted for review under 10 CFR 2.206 and had been referred to the Office of Nuclear Reactor Regulation for appropriate action. A copy of the acknowledgment letter is publicly available in the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession No. ML032690314. A copy of the Petition is publicly available in ADAMS under the Accession No. ML032400435.

The Petitioners' representatives met with NRC staff on September 17, 2003, to provide additional details in support of this request. This meeting was transcribed and the transcript is publicly available on the NRC Web site as a supplement to the Petition (<http://www.nrc.gov/reactors/operating-ops-experience/vessel-head-degradation/controlled-correspondence.html>).

The licensee responded to the Petition on October 20, 2003 (ML033421458). This response was considered by the staff in its evaluation of the Petition.

In a letter dated November 26, 2003 (ML033010172), the NRC provided to the Petitioners its evaluation of their "immediate action" requests. The staff considered the Petitioners' requests to suspend the Davis-Besse license and prohibit plant restart until certain conditions have been met to be equivalent to "immediate action" requests because the Davis-Besse licensee might complete all necessary restart activities, and the NRC staff might complete all necessary oversight activities, before the staff could finalize the Director's Decision on this Petition. Requests 3, 4, and 5 in the Petitioners'

August 25 letter were considered immediate action requests, and the staff's November 26 evaluation is repeated in Section II.D of the Director's Decision for completeness.

The NRC sent a copy of the proposed Director's Decision to the Petitioners and to the licensee for comment on February 5, 2004 (ML040280003). Neither the Petitioners nor the licensee provided comments on the proposed Director's Decision.

The Director of the Office of Nuclear Reactor Regulation has determined that the Petitioners' first request for enforcement based solely on failure of the licensee to complete commitments represents a misinterpretation of the agency's enforcement policies regarding commitments and therefore is denied. The Director of the Office of Nuclear Reactor Regulation has also determined that the Petitioners' second request for enforcement based on numerous design basis violations is in effect being granted by the actions already taken by the staff. The reasons for these decisions are explained in Director's Decision DD-04-01, the complete text of which is available in ADAMS, or is available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible from the ADAMS Public Electronic Reading Room on the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated in Rockville, Maryland, this 22nd day of April, 2004.

For the Nuclear Regulatory Commission.

**J.E. Dyer,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 04-9692 Filed 4-28-04; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on May 5-8, 2004, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, November 21, 2003 (68 FR 65743).

#### Wednesday, May 5, 2004 (Closed)

**11 a.m.-6:30 p.m.: Safeguards and Security (Closed)**—The Committee will hear presentations by and hold discussions with representatives of the Office of Nuclear Regulatory Research and the Office of Nuclear Security and Incident Response regarding safeguards and security matters.

#### Thursday, May 6, 2004, Conference Room T-2B3, Two White Flint North, Rockville, Maryland

**8:30 a.m.-8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)**—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

**8:35 a.m.-10:30 a.m.: Use of Mixed Oxide (MOX) Lead Test Assemblies at the Catawba Nuclear Station (Open)**—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Duke Cogema Stone and Webster (DCS) regarding the license amendment submitted by DCS to obtain NRC authorization to use MOX lead test assemblies at the Catawba Nuclear Station.

**10:45 a.m.-12:15 p.m.: Risk Management Technical Specifications (Open)**—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the status/overview of the initiatives associated with the risk management technical specifications, and the staff's evaluation of the proposals for pilot application of the initiative on Risk-Informed Completion Times.

**1:15 p.m.-3:15 p.m.: Trial/Pilot Implementation of Regulatory Guide 1.200, "An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-Informed Activities" (Open)**—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding insights gained from the trial/

pilot implementation of Regulatory Guide 1.200.

*3:30 p.m.-4:45 p.m.: Good Practices for Implementing Human Reliability Analysis* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and their contractors regarding the draft report on Good Practices for Implementing Human Reliability Analysis, as well as the ongoing efforts associated with the application of the methodology, "A Technique for Human Event Analysis (ATHEANA)."

*5 p.m.-6:30 p.m.: Preparation of ACRS Reports* (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as proposed ACRS reports on Divergence in Regulatory Requirements Between U.S. and Several Other Countries, and Resolution of Certain Items Identified by the ACRS in NUREG-1740 Related to Differing Professional Opinion on Steam Generator Tube Integrity.

**Friday, May 7, 2004, Conference Room T-2B3, Two White Flint North, Rockville, Maryland**

*8:30 a.m.-8:35 a.m.: Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

*8:35 a.m.-10:30 a.m.: Potential Adverse Effects from Power Upgrades* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding adverse effects experienced as a result of core power upgrades and status of ongoing and proposed activities of the industry and the NRC staff to address this issue.

*10:45 a.m.-11 a.m.: Subcommittee Report on Fire Protection Issues* (Open)—The Committee will hear a report by and hold discussions with the Chairman of the ACRS Subcommittee on Fire Protection regarding matters discussed during the April 23, 2004 Subcommittee meeting.

*11 a.m.-12 Noon: Future ACRS Activities/Report of the Planning and Procedures Subcommittee* (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

*12 Noon-12:15 p.m.: Reconciliation of ACRS Comments and*

*Recommendations* (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

*1:15 p.m.-2:15 p.m.: Preparation for meeting with the Commissioners* (Open)—The Committee will discuss topics scheduled for meeting with the NRC Commissioners in June 2004.

*2:30 p.m.-6:30 p.m.: Preparation of ACRS Reports* (Open)—The Committee will discuss proposed ACRS reports.

**Saturday, May 8, 2004, Conference Room T-2B3, Two White Flint North, Rockville, Maryland**

*8:30 a.m.-12 Noon: Preparation of ACRS Reports* (Open)—The Committee will continue discussion of the proposed ACRS reports.

*12 Noon-12:30 p.m.: Miscellaneous* (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 16, 2003 (68 FR 59644). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) P.L. 92-463, I have determined that it is necessary to close a portion of this meeting noted above to discuss and

protect information classified as national security information as well as unclassified safeguards information pursuant to 5 U.S.C. 552b(c)(1) and (3).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Cognizant ACRS staff (301-415-7364), between 7:30 a.m. and 4:15 p.m., e.t.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at [pdr@nrc.gov](mailto:pdr@nrc.gov), or by calling the PDR at 1-800-397-4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> or <http://www.nrc.gov/reading-rm/doc-collections/> (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301-415-8066), between 7:30 a.m. and 3:45 p.m., e.t., at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: April 23, 2004.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*  
[FR Doc. 04-9690 Filed 4-28-04; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### Notice for Opportunity to Comment on Model Safety Evaluation on Technical Specification Improvement to Eliminate Requirements to Provide Monthly Operating Reports and Occupational Radiation Exposure Reports Using the Consolidated Line Item Improvement Process

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Request for Comment.

**SUMMARY:** Notice is hereby given that the staff of the Nuclear Regulatory