

UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**

WASHINGTON, D.C. 20555-0001



REQUEST REPLY BY: 1/12/07

December 28, 2006

MEMORANDUM TO: Chairman Klein  
 Commissioner McGaffigan  
 Commissioner Merrifield  
 Commissioner Jaczko  
 Commissioner Lyons

Disapproved with comments.

FROM: Luis A. Reyes  
 Executive Director for Operations

*[Signature]*  
 Dale E. Klein

Date

12/18/07

SUBJECT: INDEPENDENT ASSESSMENT OF THE IMPLEMENTATION OF THE  
 REACTOR OVERSIGHT PROCESS BY THE REGIONAL OFFICES

By memorandum dated October 11, 2006, Chairman Klein directed the staff to develop a Charter for conducting an independent assessment of the implementation of the Nuclear Regulatory Commission (NRC) Reactor Oversight Process (ROP) at the Indian Point facility and other facilities in other Regions to the extent the staff deems appropriate. This direction, in part, was in response to repeated Congressional inquiries regarding the adequacy of the NRC's oversight, and licensee performance at, the Indian Point facility.

The staff presently conducts an annual self-assessment of the ROP. The results of that self-assessment are provided to the Commission each year in a Commission paper, and are discussed during the public Commission meeting on the Agency Action Review Meeting (AARM) results. In addition, the ROP has been assessed by outside organizations, including the NRC Office of the Inspector General (Audit Report OIG-05-A-06, "Audit of NRC's Baseline Inspection Program," dated December 22, 2004) and the United States Government Accountability Office (Report GAO-06-1029, "Nuclear Regulatory Commission: Oversight of Nuclear Power Plant Safety Has Improved, but Refinements Are Needed," dated September 27, 2006). In response to the Chairman's direction, the staff intends to assess ROP implementation in each of the four regions as an additional input to the annual ROP self-assessment. As part of this effort, the staff also plans to independently assess discrete licensee activities at one site in each of the four regions.

The staff proposes to use existing NRC/State memoranda of understanding to provide the option for a representative of the State to observe the assessment. Other interested State, local, or Congressional stakeholders will be briefed on the results of the assessment on an as-needed basis.

CONTACT: James Andersen, NRR/DIRS  
 301-415-3565

## Chairman Klein's Comments on COMSECY-06-0068

I want to thank the staff for preparing a comparison of the elements of an independent safety assessment and the implementation of the current Reactor Oversight Process (ROP). After reviewing the response to my October 11, 2006 memorandum I am convinced the ROP has already effectively incorporated the elements of the independent safety assessment performed at Maine Yankee. Therefore, I disapprove the proposal to perform an independent assessment of the implementation of the ROP. Instead, the staff should continue to look for ways to improve the ROP as part of the annual self assessment process.

In my memorandum dated October 11, 2006, I directed the staff to develop a charter for conducting an independent assessment of the implementation of the Nuclear Regulatory Commission (NRC) ROP at the Indian Point facility and other facilities in other Regions to the extent the staff deemed appropriate. That direction was based in part on the concerns of some that the ROP did not adequately address some of the areas inspected during the Independent Safety Assessment (ISA) of Maine Yankee Atomic Power Company in 1996 and that the Indian Point facility might benefit from such an inspection.

In response to my memorandum, the staff performed a very thorough and detailed comparison of the inspection elements in the ROP to those areas inspected during the Maine Yankee ISA and concluded that the current inspection procedures, coupled with NRC review standards, provide essentially full coverage of key aspects of the ISA. Thus, the key inspection elements of the ISA are already being performed at each operating nuclear power plant in the country on a routine basis. In addition, the staff significantly enhanced an existing design review inspection procedure in 2006. The new Component Design Basis Inspection is an intense team inspection which evaluates safety-significant components and systems to ensure the design adequacy and the ability to perform their intended functions. This inspection module is scheduled to be performed at both Indian Point Units 2 and 3 in 2007.

It was noted that the staff currently conducts an annual self-assessment of the ROP. It was also noted that the ROP has recently undergone independent assessments by the NRC Office of the Inspector General (Audit Report OIG-05-A-06, "Audit of NRC's Baseline Inspection Program," dated December 22, 2004) and the United States Government Accountability Office (Report GAO-06-1029, "Nuclear Regulatory Commission: Oversight of Nuclear Power Plant Safety Has Improved, but Refinements Are Needed," dated September 27, 2006). The results of both of these assessments were positive, identifying only minor opportunities for enhancement.

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~~Commissioner McGaffigan~~  
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*Disapproval. See  
 attached comments.  
 E. M. Hoffmann  
 1/11/07*

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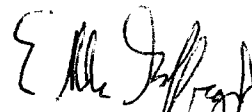
**Commissioner McGaffigan's Comments on COMSECY-06-0068**

I join Chairman Klein in commending the staff for their work in developing the comparison of the current Reactor Oversight Program (ROP) with the independent safety assessment methodology (ISA) such as was used at Maine Yankee in 1996. I also want to commend Chairman Klein for the leadership he demonstrated by his reconsideration upon reviewing the staff product of his initial proposal to embark upon a new ROP assessment. Having joined the Commission in August 1996, my time here includes that of the Maine Yankee ISA and the development of the ROP. Indeed, a key lesson that I took from the Commission's experience with Maine Yankee, Millstone, and others during that period was the need to revise the oversight program of the NRC, and the current ROP was developed by the staff and approved by the Commission with those experiences fresh in mind. Thus, I was confident that the ROP had incorporated the insights from the Maine Yankee ISA, the Millstone special team inspection, and the others, but I found the staff's matrix comparison to constitute compelling confirmation.

The ISA - ROP comparison drafted by the staff will doubtless prove useful in other venues and so, based upon my experience on the Commission during that period, I have made certain edits and amendments to that comparison that I am attaching. The one substantive change in the attached reflects that fact that the decision by the owners of Maine Yankee to permanently shut down that facility was not due to the ISA, but because of its unique corporate governance.

I therefore join with Chairman Klein and my fellow Commissioners in disapproving the proposal to perform an independent safety assessment at the Indian Point units. Also, as cited by Chairman Klein, the audits and reviews by the NRC Inspector General and the United States Government Accountability Office provide independent assessments of the ROP. In particular, I agree with Commissioner Merrifield's conclusion that the Indian Point units currently exhibit no special characteristics that would merit additional oversight by the NRC.

With respect to the participation of public stakeholders in NRC inspections, the NRC strongly encourages such involvement. Specifically, NRC Management Directive 5.2, "Memoranda of Understanding with States," provides a clear and well-established system by which interested States can both observe and participate in NRC inspections. As far as public participation in the component design bases inspections (CDBIs) at the Indian Point units, I would note that such participation is taking place even as the Commission deliberates on COMSECY-06-0068. In accordance with Management Directive 5.2, the invitation was extended to various officials of the State of New York and Mr. Paul Eddy, New York Public Service Department, attended the January 8, 2007 entrance meeting for the ongoing Indian Point CDBI and announced his intention to observe inspection activities. I agree with Commissioner Merrifield, however, that the presence during inspections of members of the general public or those associated with non-governmental groups is not appropriate, as they would detract from the effectiveness of NRC inspection activities.



Edward McGaffigan, Jr.

1/11/07  
(Date)

**Comparison of the Reactor Oversight Process  
to the  
Independent Safety Assessment of Maine Yankee Atomic Power Company**

1. Introduction

An Independent Safety Assessment (ISA) of Maine Yankee Atomic Power Company was performed in 1996. Since that time many changes have occurred in the NRC regulatory oversight of the nation's nuclear power plants including the creation of the NRC's Reactor Oversight Process (ROP). This analysis provides a brief description of the events leading up to the ISA, describes the current ROP, and provides a comparison of the ISA to the ROP and other applicable regulatory processes.

2. Timeline of the Maine Yankee Events Leading Up to the ISA

The Maine Yankee (MY) facility was licensed in 1972 at 2440 megawatt<sup>s</sup> thermal (MWt) power. In 1977, the NRC approved MY's application for a power uprate to 2630 MWt. In 1988, MY applied for a power uprate to 2700 MWt, which was approved in 1989. In December of 1995 an allegation was made that the Yankee Atomic Electric Company (YAEC), acting as an agent for MY, had knowingly performed inadequate analyses to support the increase in power to 2700 MWt, and further that the NRC staff may not have appropriately reviewed the MY power uprate request. The subsequent investigation by the Nuclear Regulatory Commission (NRC) Office of the Inspector General identified problems with the YAEC's use of computer codes as part of the power uprate analysis as well as weaknesses in the NRC review of the power uprates.<sup>1</sup> A confirmatory order was issued to MY limiting power operation to 2440 MWt. The regulatory oversight program at that time allowed for special inspections as a part of the process, called Diagnostic Evaluation Team (DET) inspections. In response to the above concerns, as well as those expressed by the Governor of the State of Maine, the NRC Chairman directed that an ISA be conducted. X

The ISA was started in July 1996 and completed in October of the same year. It focused on conformance of the facility to its design and licensing bases, operational safety performance, licensee self-assessments, corrective actions and improvement plans, and determination of the causes of safety-significant findings.

The MY ISA was unique in its scope, independence, and in its coordination with state representatives. The ISA was a modified DET that added a detailed review of analytic codes for transient and accident safety analyses. As noted in the ISA, use of application analytic codes was not typically inspected as part of the NRC regulatory process at the time and additional focused resources were applied to this area. However, review of the codes was necessary to specifically address the allegations made against YAEC. While the exact data is no longer available, it is estimated that the ISA expended approximately 4000 hours (25 people times 4 weeks) of on-site inspection, where a typical DET expended approximately 1800 hours

(15 people times 3 weeks) of on-site inspection. The difference in the on-site hours is directly related to the size of the ISA team (additional inspectors to address the highly technical and detailed allegation related to transient and accident safety analyses codes), the number of state representatives (3 on the ISA), and the extra week of on-site inspection. This can be compared to the ROP today which utilizes approximately 2500 hours of on-site inspection time for a good performing single unit site. Under the ROP today, poor performing plants may receive up to an additional 2000-2500 hours of inspection.

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### 3. ISA Results

The results of the 25-member team inspection were that the licensee's performance was considered adequate for operation. There were a number of findings in the final report, many of which would be considered minor under today's more risk-informed ROP and would not be documented in an inspection report. However, the significant results were summarized as: weak identification and resolution of problems; weak scope, rigor, and evaluation of testing; and declining material condition. These problems were caused in part by economic pressure to be a low-cost producer ~~the limiting~~ resources to address problems, and the lack of a questioning culture resulting in the failure to identify or promptly correct significant problems. The findings did not warrant or require a shutdown of the facility.

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In December of 1996, the licensee shut down the plant. Soon afterward, the NRC issued a Confirmatory Action Letter (CAL) requiring specific actions to address licensee-identified safety-system electrical separation issues and logic circuit testing deficiencies. Follow-up inspections identified problems in five major categories: inoperability of safety related equipment, and inadequacies in testing, safety review, procedures, and corrective actions. Additional design and configuration control problems were identified by NRC inspectors and the licensee in 1997. Because of these and other economic considerations, the plant's owners voted to permanently shut down the reactor in August of 1997.

← INSERT (SEE ATTACHED)

(Throughout the balance of this document many references are made to procedures used in the inspection process. To maintain brevity, in most cases these procedures are not called out in the body but are referenced with endnotes. A more detailed description of the ROP and links to Inspection Procedures can be obtained on the NRC web site: <http://www.nrc.gov/reactors/operating/oversight.html>.)

### 4. Description of the ROP

The reactor oversight process is anchored in the NRC's mission to ensure public health and safety in the operation of commercial nuclear power plants. To measure plant performance, the oversight process focuses on seven specific "cornerstones" which support the safety of plant operations: initiating events, mitigating systems, barrier integrity, emergency preparedness, occupational radiation safety, public radiation safety, and physical protection. These cornerstones are evaluated using both performance indicators (PIs) and direct inspections. The NRC assessment program collects information from inspections and performance

**Commissioner McGaffigan's Insert for Page 2 of Enclosure 2 - COMSECY-06-0068**

The diverse owners of the plant decided not to make the investments needed to restore the plant to good performance. The owners of other plants with similar (or, in some cases, far worse) problems but with different ownership structure and different corporate governance, such as Crystal River 3, Salem 1 & 2, LaSalle 1 & 2, Dresden 2 & 3, Indian Point 2 & 3, and Millstone 2 & 3, did choose to make the investments necessary to restore their plants' performance.

safety culture. These objectives are taken together to provide additional information to be used in deciding whether continued operation of the facility is acceptable, and whether additional regulatory actions are necessary to arrest declining plant performance. The inspection team is staffed, in part, with inspectors from other regions or headquarters to give a degree of independence to the effort.

^ THE APPROXIMATE NUMBERS OF INSPECTION HOURS FOR THESE EFFORTS ARE, IN INCREASING ORDER, 24, 240, AND 2400.

Another type of inspection is the reactive inspection described in MD 8.3, which is used to investigate incidents at plants. The scope and depth of the inspection is predicated on the significance of the event being investigated with Incident Investigation being the highest level, followed by Augmented Inspection and then Special Inspection. Similar to the MY ISA, incident investigation team inspections require that the inspection team be composed of members who are independent from significant involvement in the licensing and inspection of the facility.

IN THE PRECEDING PARAGRAPH

THE APPROXIMATE NUMBER OF INSPECTION HOURS FOR THESE EFFORTS ARE SIMILAR TO, IN INCREASING ORDER, THE SUPPLEMENTAL INSPECTIONS

The concept of independence is institutionalized in NRC routine procedures and practices. Inspectors are not allowed to own securities, such as company stock, that could cause a conflict of interest during an inspection. NRC employees who have worked for a licensee (including the parent companies) are not assigned to inspect those facilities for a 1-year period, and this time frame may be extended according to individual office policy.

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In addition to inspections conducted by inspectors located at the regional office, at least two resident inspectors are assigned full-time to each site. To maintain independence, the maximum time a resident inspector can be assigned to a site is seven years. The ROP inspections are also divided so that regional office-based inspectors perform a portion of the required inspection program independent of the resident inspectors and their associated management chain. Management site visits are conducted on a routine basis to assess the adequacy of the inspection effort. Finally, inspectors from headquarters or the regions are at times assigned to inspect plants in other regions.

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The NRC also provides additional independence via the use of contractors. The NRC typically hires two contractors for all Component Design Basis Inspections. These contractors must be cleared concerning any potential conflict of interest. ~~Prior to the inspection it must be verified that the contractor will not be reviewing their own work, should they have worked for the licensee in the past.~~

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The allegation process also exists which allows individuals, including plant employees, to bring safety concerns directly to the NRC. Overall, the necessary level of inspector independence from the licensee is maintained by the processes and procedures described above.

## 6. Conformance to Design and Licensing Basis

During the ISA conducted at MY the inspection team conducted an in-depth review of the plant's conformance to the design and licensing-basis. Because of allegations regarding computer codes used to justify previously approved power uprates, significant attention was placed on the transient and accident safety analyses. Further inspections focused on design



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In summary, the ROP today includes elements in the baseline inspection program to assess key safety systems, and conformance to the design and licensing basis either by inspection or with the performance indicator program. The MY ISA addressed transient analyses and codes to address allegations made regarding use of the codes. As noted earlier, transient analyses and related codes are not normally inspected as part of the ROP and it was noted in the ISA that they were not normally addressed by the regulatory process at that time either. However, when power uprates are now requested by licensees, affected transient analyses and changes to codes are reviewed and the procedures direct inspection of many other potentially impacted systems. Lessons learned from the MY ISA in the area of power uprates have been institutionalized to ensure similar problems do not recur.

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## 7. Assessment of Operational Safety

Operational safety was inspected by the MY ISA team. The review included problem identification and resolution (PI&R); quality of operations; operational programs and procedures; and plant support programs related to operator training, radiation protection, and fire protection.

Assessment of operational safety in the ROP is done continuously by resident inspectors as well as periodically by regional inspectors using inspection procedures. Current procedures and practices are described below that compare significant aspects from the ISA to the current ROP. PI&R will be addressed in a later section.

The quality of operations is currently inspected by daily control room observations and inspector attendance at selected licensee meetings.<sup>13</sup> Continuous control room observations are not routinely performed; should concerns arise, a specific procedure exists for inspectors to use.<sup>14</sup> Safety system walkdowns are specifically performed by using two procedures as well as the requirement for the resident inspector to be cognizant of the plant status.<sup>15</sup> Additionally, most procedures require inspectors to enter the plant to perform the inspection and therefore observe ongoing activities and the material condition of the plant.

The MY ISA report discusses the team's effort to review Technical Specification (TS) interpretations. Inspectors monitor licensee compliance to the TS action statements, requirements and license conditions as part of the plant status procedure.<sup>16</sup>

Online risk management and shutdown risk are evaluated using two procedures written for that specific purpose.<sup>17</sup> These procedures require inspectors to review the status of risk significant equipment and determine if the site has taken appropriate actions to reduce the overall station risk while equipment is out of service. When there are concerns regarding safety equipment performance, the licensee documents the operability of the equipment. These operability evaluations are inspected by the resident staff with a specific procedure written for that purpose; typically 15-30 reviews are performed per year<sup>18</sup> per site ✓

Also, failures of key safety systems are reported quarterly through the performance indicator program. The availability and reliability of safety systems reported on by the PIs include: emergency AC power, high pressure injection, heat removal, residual heat removal and cooling water.<sup>25</sup> Inspectors verify that the licensee accurately reports the performance indicators. Should there be a discrepancy in reporting that cannot be readily resolved, the NRC has the ability to perform an additional inspection to gather the performance indicator data.<sup>26</sup> The inspections and performance indicators are used together to ensure safety system performance is assessed and indications of declining performance are identified for additional inspections.

Post maintenance tests (PMT) verify that equipment is operable prior to returning the equipment to service. The NRC has a specific procedure<sup>27</sup> for review of PMTs and failure of equipment is evaluated by the licensee under 10 CFR 50.65, "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants." Inspectors review the licensee conclusion as to the cause of the failure and the adequacy of current maintenance practices.<sup>28</sup>

Maintenance work order control as it relates to overall plant risk is inspected by the resident staff in order to ensure the risk is fully understood by plant personnel prior to changing plant configuration.<sup>29</sup> Additionally, shutdown risk management is evaluated by the resident staff during refueling or forced outages.<sup>30</sup> In both cases, the NRC Regional Senior Reactor Analyst supports the evaluation.

In summary, the ROP has inspection procedures in place that are routinely used to assess the areas covered by the ISA including: equipment performance, quality of maintenance, testing and work order control as described above.

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## 9. Engineering Assessment

General conclusions on problem identification and resolution (PI&R), the engineering programs, design basis information and the quality of engineering were reached and reported on by the ISA team. The ROP includes a thorough set of inspections that encompass the MY ISA reviewed areas. PI&R will be discussed in a later section.

Engineering programs and the quality of engineering are reviewed as part of the review of modifications. Modifications are inspected by resident staff and regional inspectors to ensure the modification maintained the design and licensing basis.<sup>31</sup> Service water systems are inspected by resident staff and regional inspectors to ensure the components meet the requirements reiterated in Generic Letter 89-13, "Service Water System Problems Affecting Safety-Related Equipment."<sup>32</sup> Other inspection procedures encompass service water components.<sup>33</sup> Erosion/corrosion issues are currently inspected on a refueling outage basis.<sup>34</sup>

Design basis information is frequently reviewed during several NRC inspections, but most notably during the CDBI and to a lesser extent when reviewing modifications. These inspections are all performed biennially under the current inspection program, as described above and are used to evaluate the quality of the engineering work performed.

The Service Water Operational Performance Inspection (SWOPI), which was performed by MY staff, was commented on by the ISA team in their report. This was a licensee specific self-assessment, and self-assessments are reviewed during the PI&R inspection. The service water system, in general, is a safety system inspected under the ROP by a number of inspection procedures as noted previously.

The MY ISA also assessed the licensee in the area of planning and resources. The NRC assesses all NRC findings and violations to determine if there are cross-cutting aspects associated with the issue. Inspectors determine if a cross-cutting issue exists by evaluating the apparent or root cause of the issue. If the issue is determined to be caused by a problem identification or resolution failure, human performance failure, or a safety conscious work environment issue, it can be considered to have a cross-cutting aspect. The human performance area includes evaluating problems caused by lack of resources as an attribute suitable for inclusion. The ROP assessment process reviews findings identified in the previous year and could conclude that insufficient resources are available if several findings are identified with this attribute. A substantive cross-cutting issue would then be identified and discussed in an assessment letter sent to the licensee.<sup>35</sup>

The inspections described above demonstrate that the current ROP provides a thorough inspection of the licensee's self-assessment and corrective action programs. Also, the adequacy of resources is reviewed as a part of a human performance cross-cutting issue along with other potential cross cutting issues. This is a key focus area for the staff because cross-cutting issues are systemic and can be an indicator of declining performance.

#### 11. Conclusions From Comparison of MY ISA to ROP *AND PROBLEM IDENTIFICATION AND RESOLUTION*

The MY ISA did not require the shutdown of the facility because performance was considered adequate. However, it did result in an in-depth review of the licensee's operation, particularly in the area of the design basis. Similar to the MY ISA and past DET inspections, under the ROP a poor performing plant, as defined by objective criteria, receives an inspection using IP 95003, "Supplemental Inspection for Repetitive Degraded Cornerstones, Multiple Degraded Cornerstones, Multiple Yellow Inputs, or One Red Input." The inspection has several objectives and includes gathering additional information to be used in deciding whether continued operation of the facility is acceptable and whether additional regulatory actions are necessary to arrest declining plant performance. The inspection also provides insight into the overall root and contributing causes of performance deficiencies. To provide a diversity of talent and perspectives and to add a degree of independence to the effort, the inspection team is staffed, in part, with inspectors from other regional offices or headquarters. In the situation where a plant experiences an isolated operational event that meets the criteria described in MD 8.3, a reactive inspection will take place. Similar to the MY ISA, the highest level of reactive inspection requires that the inspection team be composed of members who are independent from significant involvement in the licensing and inspection of the facility.

Problems with the power uprate codes and processes used for MY were recognized and, based on the lessons learned, procedures now prescribe specific actions and inspections to ensure design margins are maintained.

Weak identification and resolution of problems found during the ISA are now covered in depth by the PI&R inspections that are done continuously at every site by the resident inspectors, and by more rigorous PI&R inspections performed biennially with inspection teams. Weak scope, rigor, and evaluation of testing, and declining material condition are inspected thoroughly in the surveillance testing reviews, walkdowns done by resident inspectors, and by the extensive component design basis inspections which are performed biennially. The causes of the problems identified in the ISA were economic pressure to be a low-cost producer limiting resources to address problems, and lack of a questioning culture resulting in failure to identify or promptly correct significant problems. While the NRC does not directly assess economic pressure, as discussed above, inspectors may address resources as part of a human performance cross-cutting issue when categorizing findings. The lack of a questioning culture and not identifying and correcting problems is the direct focus of the PI&R inspection. These areas have also received heightened attention with the safety culture enhancements implemented in July of 2006.

WITH GREATER DISCIPLINE AND BETTER FOCUS ON POTENTIALLY RISK-SIGNIFICANT PROBLEMS

Overall, the current ROP inspection procedures and NRC review standards provide essentially full coverage of key aspects of the MY ISA. This is shown in a cross-reference between the ISA and the ROP in Attachment 1. If the resources used to review the MY allegations are subtracted from the overall direct inspection effort for the ISA, the remaining resources are similar to those used for a single unit site under the ROP. The ROP is designed to be objective and predictable, meaning that given the same performance, different licensees will receive the same level of regulatory oversight. Plants that show symptoms of declining performance receive increased levels of inspection above the baseline. The tools available to the inspectors, regional and headquarters management, and the Executive Director of Operations are extensive to ensure the health and safety of the public. As described in earlier sections, there are some facilities that are receiving increased oversight due to performance concerns. In summary, the current ROP is working to ensure the right level of oversight is provided based on licensee performance.

x

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EACH YEAR

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*Disapproval - See  
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 Executive Director for Operations

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CONTACT: James Andersen, NRR/DIRS  
 301-415-3565

Commissioner Merrifield's Comments on COMSECY-06-0068  
Independent Assessment of Current Reactor Oversight Process

I join with Chairman Klein and Commissioner Jaczko and disapprove the proposal to perform an independent assessment of the implementation of the current Reactor Oversight Process. However, I would go further to state explicitly that I do not believe that additional oversight of the Indian Point units, beyond the planned component design basis inspection, is necessary at this time. I believe the staff has demonstrated by its comparison of the elements of the independent safety assessment performed at the Maine Yankee plant and the current elements of the Reactor Oversight Process that the current inspection and oversight process provides the necessary oversight of operating units, including criteria to determine when special circumstances exist at plants such that additional oversight is warranted. There are no special circumstances at this time that would warrant additional oversight of the Indian Point units.

I disagree with the view of Commissioner Jaczko that public stakeholders should be invited to observe the upcoming Component Design Basis Inspections at the Indian Point plants. While a strategic outcome of the Commission is for stakeholders to be informed of our activities and involved, as appropriate, I believe that the public release of the results of the Indian Point plant inspections provide the public sufficient opportunities to be informed about the nature and outcome of the staff actions without the need to open up our inspection activities for members of the public or other interested parties to observe. Our primary purpose is to ensure our inspectors focus their entire attention on their inspection efforts and make findings where appropriate. The additional distraction of having to be concerned with individuals "looking over their shoulders", under the guise of improving public confidence, would take away from this focus and would likely undermine the effectiveness of our staff inspection efforts.

Finally, I acknowledge that the Reactor Oversight Process has recently undergone independent assessments by both the NRC Office of the Inspector General and the United States Government Accountability Office and that the results of both of these assessments were positive. As with any process, there can always be opportunities to enhance or revise the existing practices, so I would encourage the staff to continue to look for opportunities to improve on its oversight of reactor operations within its existing budget allocation.



1/9/07

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Disapprove. See attached comments.

*Joshua C. Walker*  
*For*  
 Gregory B. Jaczko  
 1/8/07  
 Date

FROM: Luis A. Reyes  
 Executive Director for Operations

SUBJECT: INDEPENDENT ASSESSMENT OF THE IMPLEMENTATION OF THE  
 REACTOR OVERSIGHT PROCESS BY THE REGIONAL OFFICES

By memorandum dated October 11, 2006, Chairman Klein directed the staff to develop a Charter for conducting an independent assessment of the implementation of the Nuclear Regulatory Commission (NRC) Reactor Oversight Process (ROP) at the Indian Point facility and other facilities in other Regions to the extent the staff deems appropriate. This direction, in part, was in response to repeated Congressional inquiries regarding the adequacy of the NRC's oversight, and licensee performance at, the Indian Point facility.

The staff presently conducts an annual self-assessment of the ROP. The results of that self-assessment are provided to the Commission each year in a Commission paper, and are discussed during the public Commission meeting on the Agency Action Review Meeting (AARM) results. In addition, the ROP has been assessed by outside organizations, including the NRC Office of the Inspector General (Audit Report OIG-05-A-06, "Audit of NRC's Baseline Inspection Program," dated December 22, 2004) and the United States Government Accountability Office (Report GAO-06-1029, "Nuclear Regulatory Commission: Oversight of Nuclear Power Plant Safety Has Improved, but Refinements Are Needed," dated September 27, 2006). In response to the Chairman's direction, the staff intends to assess ROP implementation in each of the four regions as an additional input to the annual ROP self-assessment. As part of this effort, the staff also plans to independently assess discrete licensee activities at one site in each of the four regions.

The staff proposes to use existing NRC/State memoranda of understanding to provide the option for a representative of the State to observe the assessment. Other interested State, local, or Congressional stakeholders will be briefed on the results of the assessment on an as-needed basis.

CONTACT: James Andersen, NRR/DIRS  
 301-415-3565

**Commissioner Gregory B. Jaczko's Comments on COMSECY-06-0068  
Independent Assessment of the Implementation of the Reactor Oversight Process at  
Indian Point and Other Facilities**

I disapprove of the staff's proposal, prepared at the request of Chairman Klein, to perform an independent assessment of the Reactor Oversight Process (ROP) at the Indian Point Nuclear Generating Station and at other facilities in other NRC regions. Stakeholders concerned about operations at Indian Point have called for an independent safety assessment. While I appreciate the Chairman's interest in stronger oversight of Indian Point, this proposal will not effectively accomplish that goal and will expend resources on a low priority effort at a time when the agency faces the potential of level funding from FY 2006 into FY 2007.

The Commission has previously committed to performing detailed component design bases inspections at both Indian Point units this year. That assessment will provide tangible information about the safety of the facility. **To better strengthen public confidence in the agency's efforts, the staff should invite public stakeholders to observe these thorough inspections.**



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**

WASHINGTON, D.C. 20555-0001



**REQUEST REPLY BY:** 1/12/07

December 28, 2006

Disapproved, with comments.

MEMORANDUM TO: Chairman Klein  
 Commissioner McGaffigan  
 Commissioner Merrifield  
 Commissioner Jaczko  
 Commissioner Lyons

*Peter B. Lyons*  
 Peter B. Lyons  
 1/9/07  
 Date

FROM: Luis A. Reyes  
 Executive Director for Operations

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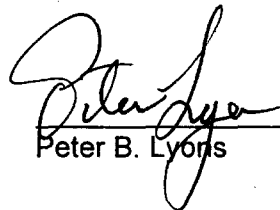
Commissioner Lyons' Comments on COMSECY-06-0068

I agree with the Chairman's comments and disapprove implementation of the additional assessment of the Reactor Oversight Process (ROP) proposed by the staff in response to the Chairman's October 11, 2006, memorandum.

I have consistently emphasized the need for maintaining our focus on operating plant safety and have paid close attention to the conduct of the ROP and to its embedded ongoing self-assessment and improvement process, which is reported to the Commission annually. Additional assessments by the NRC Inspector General and the General Accountability Office have also prompted some improvement and have largely confirmed the robustness of this vitally important program.

I have also closely followed issues involving the Indian Point Energy Center (IPEC), including visiting the site early in my tenure, and remain comfortable that the ROP is directing the appropriate type and level of inspection and assessment oversight. However, I acknowledge that some stakeholders remain unconvinced of this. To address this last point, I previously strongly advocated Commission correspondence to NY State congressional representatives inviting NY State observers to witness the NRC's extensive 2007 design inspections at IPEC, under the guidelines of NRC Management Directive 5.2 Memoranda of Understanding with States or applicable specific MOU as appropriate.

Finally, the staff should work with the Office of Public Affairs, the Office of Congressional Affairs and others as appropriate, to ensure that this Commission decision, its rationale and basis, and relevant supporting documents including the staff's comparison table of the ROP with the previous inspection performed at Maine Yankee, are expeditiously made available to all previously interested stakeholders.

  
Peter B. Lyons      1/9/07  
Date