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March 26, 2007

Rulemakings and Adjudications Staff
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
BY E-MAIL TO: SECY@nrc.gov

Subject: *San Luis Obispo Mothers for Peace's Comments on NRC
Proposed Rule, "Power Reactor Security Requirements," 71 Fed.
Reg. 62,664 (October 26, 2006)*

Dear Madam/Sir:

On behalf of the San Luis Obispo Mothers for Peace (SLOMFP), I am writing to submit supplemental comments on the U.S. Nuclear Regulatory Commission's (NRC's) proposed security regulations, Proposed Rule, "Power Reactor Security Requirements, 71 Fed. Reg. 62,664 (October 26, 2006). These comments are in addition to the comments submitted by SLOMFP on March 21, 2007, in conjunction with the Union of Concerned Scientists, North Carolina Waste Awareness and Reduction Network, and Public Citizen. See letter from David Lochbaum and Edwin S. Lyman to Secretary, U.S. Nuclear Regulatory Commission.

As stated in our March 21 comments, SLOMFP supports the language of proposed 10 C.F.R. § 73.2, which would include spent-fuel pools in the definition of "target sets" that must be addressed in licensee security plans. 71 Fed. Reg. at 62,846. We are deeply concerned, however, that the proposed rule gives no indication that the NRC has taken the most important and effective step necessary to reduce the effectiveness of sabotage against spent-fuel pools, *i.e.*, requiring licensees to change the configuration of spent-fuel pools from high-density storage to low-density storage using open-frame racks. The use of low-density storage in spent-fuel pools would dramatically reduce the likelihood that an act of sabotage would cause a fire in a spent-fuel storage pool. See the Massachusetts Attorney General's Petition for Rulemaking to Amend 10 C.F.R. Part 51 (August 25, 2006) (PRM-51-10) and the supporting Declaration of Dr. Gordon R. Thompson at 9-10 (August 23, 2006). In addition, given the lower inventory of spent fuel in a pool using a

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low-density configuration, the magnitude of the radioactive release would be substantially reduced in the unlikely event that a fire is initiated.

Similarly, there is no indication in the Design Basis Threat Rule that the NRC has required licensees to eliminate high-density storage in spent-fuel pools. *See* Final Rule, “Design Basis Threat,” 72 Fed. Reg. 12,705 (March 19, 2007) (DBT Rule). Instead, the DBT Rule vaguely states that an “initiative,” taken as part of a February 2002 enforcement order, required licensees to “look at what might happen if a nuclear power plant lost large areas due to explosions or fires” and “identify and later implement strategies that would maintain or restore cooling for the . . . spent fuel pool.” 72 Fed. Reg. at 12,711-12. The NRC appears to ignore the most effective strategy for reducing the risk of a pool fire, which would be to require the implementation of low-density fuel storage in open-frame racks. This protective measure would not require the availability of electricity, cooling water, makeup water, or operators, because its protective function derives entirely from passive mechanisms. This measure would be an essential element of any rational strategy for providing defense in depth of a nuclear power plant and its spent fuel.

SLOMFP believes that NRC would best serve the public interest in maintaining security at nuclear power plants by making a clear announcement that the NRC has taken the truly effective step of requiring the use of open-frame low-density racks in fuel storage pools, rather than by making vague assertions that licensees have taken unspecified “mitigative measures” of unknown effectiveness.

We also wish to clarify that we continue to believe that by failing to address the environmental impacts of high-density pool storage of spent fuel in an Environmental Impact Statement (EIS), the NRC has violated the National Environmental Policy Act (NEPA). As stated in our comments of January 2, 2007, we support the petition for rulemaking submitted by the Attorneys General of the Commonwealth of Massachusetts (PRM-51-10), which requests the NRC to revoke regulations precluding consideration of the environmental impacts of high-density pool storage of spent fuel in EISs. We also support the similar rulemaking petition submitted by the State of California on March 16, 2007. The requirements of NEPA are independent of the Atomic Energy Act, and therefore must be addressed separately. *Limerick Ecology Action v. NRC*, 869 F.2d 719, 729-30 (3rd Cir. 1989).

Sincerely,

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