

finding indicates that based on the testimony of Dr. Dunkman and his demeanor during testimony, the Administrative Judge (AJ) was persuaded that he was extremely upset with the appellant for having his study temporarily suspended. During the PEC the staff also observed that Dr. Dunkman still appeared upset with the complainant for this action and did not seem to have an understanding that telling her she should not give an FDA inspector information was wrong. The testimony and the June 9, 1997 memo that Dr. Dunkman authored made it clear to the AJ that he found her disloyal and tried to get rid of her. Accordingly, the AJ found that the protected disclosures did contribute significant changes to her working conditions, *i.e.*, her working conditions became intolerable.

The Licensee contends the specific areas cited did not constitute a hostile work environment. Specifically, that (1) the supervisor denied threatening to dismiss the research nurse, (2) the research nurse was not isolated by her supervisor but isolated herself, (3) it was the research nurse's own decision to not attend routine meetings, (4) no criminal charges were filed against the research nurse regarding the missing files, and (5) no action (intimidation, threats, or impedance from making future disclosures) was taken against the research nurse after the FDA audit wherein she volunteered information to the FDA.

The NRC has determined, based on the MSPB finding and information gathered at the PEC, that the protected disclosures resulted in the complainant's supervisor becoming increasingly angry at her and did contribute to significant changes to her working conditions, *i.e.*, her working conditions became intolerable. The NRC recognizes that the research nurse may have isolated herself from her supervisor and the other nurse in the laboratory. Nonetheless, it was clear that the supervisor failed to address that isolation or include her in work related discussions with the other nurse. In addition, he made statements that could reasonably be construed as a threat of dismissal, he labeled the nurse as "insubordinate" for volunteering information to a regulatory agency, and he tried to terminate her after she raised safety concerns.

The Licensee's response also provided a number of reasons for its disagreement with the MSPB conclusion that the termination of the research nurse was also discriminatory. Since the termination was not part of the violation cited by the NRC in the Notice, dated July 20, 2000, there is no need for the NRC to respond to those Licensee's contentions.

The Licensee also stated that there was an error on page 2 of the NOV in the following statement; "Specifically, after the individual raised (to the FDA in April 1997 and to the NRC in June 1997) issues regarding the inadequacy of the consent forms used by the participants in a research study, there were significant negative changes to her working conditions." The Licensee contends that neither the supervisor nor the management at PVAMC knew about the FDA audit until June 1997. The NRC acknowledges that the Licensee may not have known about issues

raised to the FDA until June 1997, but the nurse first made protected disclosures to the Licensee in February 1997. Therefore, this information does not change the NRC's conclusion that the Licensee created a hostile work environment between April 1997 and May 1998, which was based, in part, on the nurse's engagement in protected activities.

## 2. NRC Conclusion

The NRC has concluded that this violation occurred as stated in the Notice and the Licensee did not provide a sufficient basis for withdrawing the violation or for rescinding the civil penalty. Accordingly, the proposed civil penalty in the amount of \$5,500 should be imposed.

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## NUCLEAR REGULATORY COMMISSION

### Licensing Support System Advisory Review Panel

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Renewal of the Charter of the Licensing Support Network Advisory Review Panel (LSNARP).

**SUMMARY:** The Licensing Support System Advisory Review Panel was established by the U.S. Nuclear Regulatory Commission as a Federal Advisory Committee in 1989. Its purpose was to provide advice on the fundamental issues of design and development of an electronic information management system to be used to store and retrieve documents relating to the licensing of a geologic repository for the disposal of high-level radioactive waste, and on the operation and maintenance of the system. This electronic information management system was known as the Licensing Support System (LSS). In November, 1998 the Commission approved amendments to 10 CFR part 2 that renamed the Licensing Support System Advisory Review Panel as the Licensing Support Network Advisory Review Panel.

Membership on the Panel continues to be drawn from those interests that will be affected by the use of the LSN, including the Department of Energy, the NRC, the State of Nevada, the National Congress of American Indians, affected units of local governments in Nevada, the Nevada Nuclear Waste Task Force, and a coalition of nuclear industry groups. Federal agencies with expertise and experience in electronic information management systems may also participate on the Panel.

The Nuclear Regulatory Commission has determined that renewal of the

charter for the LSNARP until December 14, 2002 is in the public interest in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act after consultation with the Committee Management Secretariat, General Services Administration.

### FOR FURTHER INFORMATION CONTACT:

Andrew L. Bates, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone 301-504-1963.

Dated: December 20, 2000.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

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## NUCLEAR REGULATORY COMMISSION

[7590-01P]

### Advisory Committee on Reactor Safeguards; Renewal

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of renewal of the Advisory Committee on Reactor Safeguards (ACRS).

**SUMMARY:** The Advisory Committee on Reactor Safeguards was established by Section 29 of the Atomic Energy Act (AEA) in 1954. Its purpose is to provide advice to the Commission with regard to the hazards of proposed or existing reactor facilities, to review each application for a construction permit or operating license for certain facilities specified in the AEA, and such other duties as the Commission may request. The AEA as amended by PL 100-456 also specifies that the Defense Nuclear Safety Board may obtain the advice and recommendations of the ACRS.

Membership on the Committee includes individuals experienced in reactor operations, management; probabilistic risk assessment; analysis of reactor accident phenomena; design of nuclear power plant structures, systems and components; materials science; and mechanical, civil, and electrical engineering.

The Nuclear Regulatory Commission has determined that renewal of the charter for the ACRS until December 22, 2002 is in the public interest in connection with the statutory responsibilities assigned to the ACRS. This action is being taken in accordance with the Federal Advisory Committee Act.