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

OFFICE OF THE COMMISSIONER

Approve in part. Disapprove in part
See attached comments.

Greta Joy Dicus 02/04/02

December 7, 2001

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield

FROM: Nils J. Diaz

SUBJECT: PHYSICAL SECURITY MEASURES

I believe that the agency is converging on what additional security measures should be established for the regulated nuclear facilities infrastructure. For three months, the Chairman and the staff have carried most of the burden from September 11, and have successfully maintained the level of protection and government coordination required for assurance of adequate protection. I thank the Chairman and the staff for their untiring efforts.

The scoping paper provided by the staff in SECY-01-0215 addresses a myriad of issues requiring time for deliberations. Since near-term direction from the Commission is necessary on several of these issues, I recommend that the Commission, building upon the efforts of the Chairman and the staff, take the two actions detailed below to address the need for promptly establishing interim sets of compensatory measures, as identified in SECY-01-0215, and to better establish the framework for long-term physical security requirements. These recommendations do not rely on any of the proposed actions or activities involving the Office of Homeland Security (OHS) or other Federal, State, and local entities.

Action 1. Establish Sets of Interim Compensatory Measures for Physical Security by Licensees In a High Level Threat Environment

The staff, as directed by the Chairman, has proposed prudent and practical interim compensatory measures for the period of a high level threat environment. I believe these could be required by the NRC with implementation initiated almost immediately by the most prepared sectors, i.e., nuclear power plants and fuel facilities, and soon after by other licensees, **prior to redefining the threat.** Because we have not determined the entire set of parameters needed for more

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Commissioner Dicus' Comments on COMNJD-01-0002, "Physical Security Measures"

First, I appreciate Commissioner Diaz's efforts on this important issue and believe that he has helped the Commission focus its decision-making on important issues related to oversight of the physical security of our licensees. While the decision-making has not been as prompt as suggested in COMNJD-01-0002, I believe that the decision-making has been deliberate. Our patience has been important as the Agency has had to consider an ongoing flow of new information, enhance coordination between government and civilian enterprises, and increase communication, both internally and externally. We are now in a less reactive position, but the urgency for the Commission to make decisions still remains high.

I agree with my colleagues that Commission action on interim compensatory measures is a more appropriate focus at this time than to deal with the longer term issues of considering a revised design-basis threat (DBT).

Interim measures for physical security are clearly necessary for most of our licensees. However, we should be proactive and concerned with how we would support the industry in de-escalating from a high threat environment to a lower threat environment. We must communicate clearly to our licensees that these actions are interim. Should some of these measures become permanent or if some of these measures can be relaxed, we must be prepared to provide an adequate basis for those actions.

In general, I support the interim compensatory measures proposed in COMNJD-01-0002 and the votes on COMNJD-01-0002 offered by the Chairman, Commissioner McGaffigan, and Commissioner Merrifield. However, where possible, I support specifying parameters, guidelines, or performance objectives rather than specific numbers. [redacted]

I realize that specifying parameters, guidelines, or performance objectives may be difficult to achieve if we are to provide additional compensatory measures in a timely fashion. But I am persuaded by the realities that 1) we will have a difficult time stepping-back from some of these "interim" measures, 2) the basis and rationale for these specific numbers has not been discussed, 3) our stakeholders have not been fully involved, and 4) our plants continue to be adequately protected today.

Some of the proposed interim compensatory measures also require additional review and consideration from a cost / benefit perspective. I support greater use of electronic surveillance equipment, for example, but would not require it as a interim measure. Measures that require significant outlays of capital resources, for example, need to be evaluated for the longer term.

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Greta Joy Dicus, Commissioner, 2/4/02

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Licensees should be given flexibility to evaluate how this equipment might be integrated into their security plans or whether alternate means can accomplish the same goals for the interim period.

Our power reactor licensees have done an outstanding job rising to the security challenges confronting the nation and their plants in the wake of the events of September 11th. I do not believe that Orders are necessary to ensure appropriate actions will continue to be taken by the vast majority of our licensees. I believe that such an approach, to issue Orders to all nuclear power plant licensees, could ultimately be problematic for the NRC and the industry. Diversity of the US nuclear industry is a strength and we have learned that one shoe does not fit all. At this point, five months after September 11th, an even good intentioned Order could potentially reduce flexibility for our licensees to manage their facilities and raise additional questions about our oversight immediately following the September 11th events.

I continue to be most concerned about the "Insider" threat. I will support all reasonable measures to strengthen the access authorization program and protect our facilities against a passive or an active insider.

With regard to Action 2 proposed by Commissioner Diaz, I approve Items 1, 2 and 4. I support an independent assessment of the methodology for evaluating plant response to an adversarial force. This independent assessment should not restrict our ultimate decision-making. It should be just one input that we can use to help inform our thinking regarding revising the DBT and to provide insights into where our physical security programs can be improved. Because I envision a broader purpose for this independent review, I do not support the constraints imposed by Items 3 and 5. At this time, I disapprove a separate contract to evaluate the likelihood of a terrorist attack on a nuclear installation.

grd
02-04-02

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