

June 17, 2002

The Honorable Charles E. Schumer
United States Senate
Washington, D.C. 20510

Dear Senator Schumer:

I am responding on behalf of the Nuclear Regulatory Commission (NRC) to your letter of April 11, 2002, regarding the status of the Order issued on February 25, 2002, requiring nuclear power plant licensees to implement certain security measures. The Commission's response to the issues you raise in your letter is enclosed. Issuing the Order and closely monitoring licensee implementation of the requirements are a few of the many steps we are taking to ensure adequate protection of public health and safety in the current threat environment.

The Commission appreciates your interest. Please contact me if you have any additional questions or concerns.

Sincerely,

/RA/

Richard A. Meserve

Enclosure:
Statements of Concern
and NRC Responses

Senator Schumer's Statements of Concern and NRC Responses

- 1. Concern about the failure of almost 75 percent of the nation's nuclear power plants to meet the first requirement of a Nuclear Regulatory Commission (NRC) order requiring them to upgrade security by August and to ask how the NRC plans to ensure that they do so.**

The first requirement of the February 25, 2002 Order states that "Licensees shall immediately start implementation of the requirements in Attachment 2 [the Interim Compensatory Measures (ICMs)] to the Order and shall complete implementation **no later than August 31, 2002.**" The ICMs are classified as Safeguards Information pursuant to Section 147 of the Atomic Energy Act, as amended, and unauthorized distribution is prohibited. At this time, there is no reason to believe that any of the plants will fail to meet that date. Many of the licensees have requested extensions for the submission of an implementation schedule for the ICMs, but none of the requests, if granted, would be inconsistent with the implementation of security measures by the August 31 date. Each request for extension is being considered on a case-by-case basis.

- 2. Concern that 47 of the Nation's 64 sites apparently failed to submit an implementation schedule within 20 days of the February 25 Order and asked the NRC to grant them extensions ranging from two to five months. Particular concern that the majority of sites applying for extensions were apparently unable to meet one of the February 25 Order's provisions requiring them to identify those areas vulnerable to truck bombs and lay out a plan for how to defend against them.**

All licensees responded to the February 25 Order by March 18, 2002, within the 20-day response period required. When the Order was issued to licensees, we were aware that many of the actions required in the Order had already been put in place at the facilities as a result of the advisories issued following the events of September 11. We also expected that some additional actions would be required, including a detailed engineering analysis to be performed by each site. The analysis is necessary because the current threat environment warrants reconsideration of protection against postulated vehicle bombs larger than specified in the current Design Basis Threat. Many licensees submitted requests for extension related to the vehicle bomb. Of the 30 ICMs required in the Order, only three relate to the vehicle bomb and most licensee extension requests relate to these three. Most of the requests for extension of the schedule are related to the need to complete analyses of blast effects in order to develop means to satisfy these ICMs. Each licensee request is being considered on a case-by-case basis as part of the NRC review process. However, none of the extensions, if granted, would change the requirement that each licensee implement all aspects of the Order by August 31.

ENCLOSURE

3. **Concern that three of the reactor sites in New York: the R.E. Ginna site in Wayne County and the James A. Fitzpatrick, and Nine Mile Point 1 and 2 sites in Oswego County have asked for extensions.**

The licensees for the Ginna, Fitzpatrick and Nine Mile Point plants have requested an extension for submission of the implementation schedule. As indicated in the response to item 2, these requests are based on the requirements for a detailed engineering analysis relating to a postulated vehicle bomb. Each request is being considered on a case-by-case basis. A letter will be issued to each of these sites stating whether the extension request will be granted. Irrespective of these extension requests, the Order clearly requires that implementation of the ICMs will be completed by August 31.

4. **Concern that the long extensions being requested by the nuclear facilities suggest that the plants will be unable to have the actual upgrades in place by the August 31 deadline.**

As stated previously, none of the extensions, if granted, will result in the requirements of the Order not being implemented by the August 31 deadline.

5. **Concern that seven months after September 11, US nuclear plant operators are still unfamiliar with the basic vulnerabilities of their facilities and are unable to quickly detail what security upgrades need to be made to address them.**

As indicated in our response to item 2 above, the majority of requests for extension concern the engineering analysis relating to a postulated vehicle bomb. Nuclear plant operators have taken appropriate actions following the events of September 11 in response to more than 30 NRC advisories. The letter transmitting the Order to licensees states, "the Commission recognizes that you have voluntarily and responsibly implemented additional security measures following the events of September 11, 2001, but, in light of the continuing generalized high-level threat environment, the Commission concludes that the security measures should be embodied in an Order, consistent with the established regulatory framework."

The methodology for security upgrades related to vehicle bombs and the resulting standoff distances for barriers must be calculated systematically. The licensees may use existing guidance which has been provided to them or develop their own methods to complete the analysis. In any event, all analyses required in the Order are to be completed and appropriate modifications made to security systems by August 31.

6. **How does NRC plan to ensure that the facilities meet the August 31 deadline? If NRC has no plan in place to expedite implementation of the upgrades, one should be developed.**

An Order imposes legally binding requirements upon a licensee. If a licensee does not comply with the requirements of an Order, civil penalties or additional sanctions for such noncompliance may be imposed by further Order. Willful noncompliance with an Order may result in criminal sanctions pursuant to Section 223 of the Atomic Energy Act, as amended.

If a licensee fails to comply with the Order, the NRC is prepared to consider the full range of legal options available, up to and including requiring that the plant cease operations.

7. **Urges NRC to brief the local officials representing communities located near nuclear sites on the progress of the facilities in their area in meeting the August 31 deadline.**

Immediately following issuance of the February 25, 2002 Order, the NRC Office of State and Tribal Programs notified all State Liaison Officers (NRC-appointed representation for each State) suggesting that they notify the Governor's office and other State officials as appropriate. In addition, NRC issued a press release which was provided to each State representative. Contact numbers were given for each NRC regional office to answer questions.

One provision of the February 25 Order includes a requirement for licensees to develop and document an integrated response plan employing State and local law enforcement and/or other Federal resources.