

May 9, 2003

The Honorable Lindsey O. Graham  
United States Senate  
Washington, D.C. 20510

Dear Senator Graham:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter to Richard A. Meserve, former Chairman of the NRC, in which you provided comments on NRC's ongoing efforts to enhance security requirements at the nation's nuclear facilities.

As you noted in your letter, the NRC and the nuclear industry are committed to safety and security at nuclear facilities. Immediately after the September 11, 2001 terrorist attacks, the NRC issued numerous advisories to the major licensed facilities to describe threat conditions and recommended additional security measures. The licensees voluntarily implemented enhancements in response to these advisories and their own assessments. The NRC has also been conducting a comprehensive review of its security and safeguards program, including the design basis threat (DBT), in conjunction with the Intelligence Community, Federal law enforcement, the Department of Defense, the Department of Energy, Department of Homeland Security (previously the Office of Homeland Security), appropriately cleared State and local officials, and the industry. We have testified before the Congress numerous times on the progress of these efforts. Security across the nuclear industry was enhanced as a result of the actions taken based on our review, and many of the strengthened security measures are now requirements as a result of subsequently-issued NRC Orders.

We recognize that there are limits to the defensive capabilities that should be expected of nuclear plant operators and that certain threats may be beyond the reasonable capabilities of licensee security forces. The NRC acknowledged this and specifically sought comments on the public-private threshold when we circulated NRC staff draft views on adversary attributes associated with the DBT in January 2003. On April 29, 2003, the NRC, after extensive deliberation and interaction with appropriately cleared stakeholders, issued Orders changing the DBT. The Commission believes that the DBT represents the largest reasonable threat against which a regulated private guard force should be expected to defend under existing law. Two other Orders were issued to nuclear plants on April 29, 2003, regarding work hours, training, and qualification requirements for security personnel. Orders, which allow affected parties to request hearings, were used because they provide timely implementation of requirements that we consider necessary to protect public health and safety, as well as the common defense and security. With these actions, the Commission expects that there will be a period of regulatory stability during which operating commercial plant licensees will be able to consolidate these and previously ordered security enhancements. We intend to use the rulemaking process, as appropriate, to achieve longer-term regulatory stability through revisions to the regulations.

As noted in your letter, the threat of terrorism at nuclear facilities should not be viewed or dealt with in isolation, but should be part of an overall national homeland security strategy. The effort to develop an integrated national strategy to protect various critical infrastructure is underway and NRC is actively participating in its development. The strategy considers the responsibilities and resources of Federal, State, and local government agencies, as well as private sector responsibilities and resources in protecting critical infrastructure. Establishing and implementing an integrated national strategy is an important task for the Department of Homeland Security and other Federal agencies, such as the NRC.

The NRC will continue to work with the nuclear industry and government agencies at all levels to evaluate the threat environment and ensure that security programs are adequate to protect public health and safety and promote common defense and security. Please do not hesitate to contact me if you have any further concerns or questions.

Sincerely,

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Nils J. Diaz