

May 9, 2003

The Honorable Jeff Sessions
United States Senate
Washington, D.C. 20510

Dear Senator Sessions:

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, providing comments on NRC's ongoing efforts to enhance security at the nation's nuclear facilities.

As you noted in your letter, nuclear power plants are far ahead of other elements of the nation's critical infrastructure in terms of protection from terrorist attacks. 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 agree that continuing interaction and coordination with appropriate stakeholders is an important part of understanding the potential ramifications of security-related decisions and ensuring reasonable and consistent vulnerability and risk assessments across the nation's critical infrastructure. NRC has established a liaison with the Department of Homeland Security (DHS) and strengthened existing coordination with other agencies and organizations, such as the Homeland Security Council, Federal Bureau of Investigation, Central Intelligence Agency, Department of Energy, Federal Aviation Administration, and Department of Transportation.

We acknowledge your concern that some people have placed emphasis on threats to nuclear power plants and exclude other more vulnerable critical infrastructure. The NRC is actively participating in efforts to implement an integrated national strategy for the protection of critical infrastructure facilities. The strategy considers the responsibilities and resources of Federal, State, and local government agencies, as well as private sector responsibilities and resources, to protect the nation's critical infrastructure more effectively and efficiently.

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.

Over the years, the NRC has provided and continues to pursue legislative proposals to Congress detailing specific initiatives that would further enhance security of NRC-licensed activities. These proposals address a wide spectrum of activities. The Commission had submitted legislation to the 107th Congress that proposed enhancements to nuclear security, which were not enacted before Congress adjourned. We hope that security legislation will receive your support in the 108th Congress. The proposals now advocated by the NRC generally include: (a) providing broadened weapons possession authority for the security forces of licensees and certificate holders; (b) making it a Federal crime to bring unauthorized weapons and explosives into NRC-regulated facilities; (c) expanding the scope of the Federal criminal prohibitions against sabotaging certain classes of NRC-regulated facilities; (d) expanding the categories of licensee employees and contractors subject to criminal history checks; and (e) broadening NRC authority over radioactive material to include accelerator-produced material and discrete sources of radium-226.

In summary, 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.

Thank you for providing your comments. We look forward to your support for our legislative proposals in the 108th Congress.

Sincerely,

/RA/

Nils J. Diaz