



NUCLEAR ENERGY INSTITUTE

Marvin S. Fertel  
SENIOR VICE PRESIDENT AND  
CHIEF NUCLEAR OFFICER

August 6, 2004

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The Honorable Frank Libutti  
Under Secretary  
Information Analysis and Infrastructure Protection  
U.S. Department of Homeland Security  
Nebraska Avenue Complex  
Nebraska and Massachusetts Avenues, NW  
Washington, D.C. 20528

Dear Mr. Under Secretary:

The National Infrastructure Protection Plan (NIPP) is a critical part of developing and implementing the public and private partnership essential to securing the nation's critical infrastructure and key assets. The Nuclear Energy Institute appreciates the opportunity to review and provide input for developing an accurate and effective plan.

As you know, the Nuclear Sector Coordinating Council (NSCC) represents the interests of the commercial nuclear sector, virtually all of which is owned and operated by private sector companies. As a member of that council, I have reviewed the Nuclear Sector Specific Plan (NSSP) and have an overall concern with the document. The NSSP does an excellent job of describing how the NRC carries out its regulatory responsibilities in regards to the nuclear sector. However, the Plan does not describe the overall functions or makeup of the sector outside of the NRC's regulated activities. The NSCC should be recognized as clearly representing the interests of the commercial nuclear sector in all matters of security outside of the NRC regulatory framework and the role of DHS should also be appropriately defined.

As a member of the NSCC, I would like to request a meeting with you or your designee to address this concern and seek clarification from DHS on additional issues (attached). The guidance provided during this meeting will allow for the preparation of more thoughtful and detailed comments regarding the NIPP. I would also like to request an extension of the deadline for preparing detailed comments until two weeks following the meeting. The first meeting of the NSCC is planned for October 13, so I would propose that we meet before that date.

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Again, we are grateful for the chance to provide input in developing the NIPP. We believe that an accurate and complete document can only be developed with strong involvement from the owners and operators of these key assets. If you have any questions or need additional information, please call me at 202-739-8125 or the Chairman of the NSCC, Mike Wallace, at (410) 783-2877.

Sincerely,

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Marvin S. Fertel

Attachment

**Issues for Discussion on the Nuclear Sector Specific Plan**

- ◆ **Functions described in NIPP Base Plan Section 5 (Roles and Responsibilities).** For example, how would DHS “Conduct cost-benefit analyses for new protective programs” (Pg 31) for security initiatives at nuclear power plants?
- ◆ **DHS, as the Sector Specific Agency responsible for the nuclear sector carrying out their mission in context of regulated and non-regulated activities.** For example, how would DHS “Normalize and prioritize sector assets for making decisions regarding protective programs” (Pg 18, 32, Base Plan)? How would those protective programs be normalized across the sectors for effective and efficient use of both private sector and governmental resources?
- ◆ **Nuclear Sector Coordinating Council interacting with DHS and other federal entities to identify cost effective protective measures for threats that may exist beyond DBT.** Since adjustments to the DBT will affect activities on-site (owner responsibility) and off-site (DHS responsibility), what will the review process be for requests by the NRC to make changes to the DBT that could impact both the on-site and off-site buffer-zone plans in place? Will DHS assume responsibility to approve or disapprove requested changes to the DBT based on a national intelligence or risk assessment? How does DHS make resource decisions regarding the funding of such measures in the context of the nation’s overall critical infrastructure?
- ◆ **Vulnerability assessments for nuclear power plants.** Currently the vulnerability assessments (VAs) for nuclear power plants for design basis and non-design basis events assume a probability of one (1) for threats. This greatly distorts the actual perception of vulnerability and risk and places the nuclear sector in misalignment with the rest of the nation’s critical infrastructure in regards to protective measures and defensive actions. DHS states in the Base Plan (pg 18, section 3.3) “To support proper resource allocation and consistent performance measurement, the data on different sectors’ assets and vulnerabilities will be normalized to allow a meaningful comparison of vulnerabilities and risk across the sectors.” How will DHS work with the nuclear sector to bring risk analysis processes such as the ASME CAPI results to bear upon beyond design basis issues?

♦ **Information Sharing of Threats and Notices**

In the nuclear sector, how do owner/operators participate in the information sharing and threat communication systems (e.g. HSIN) as described in the Base Plan?