

May 24, 2005

Ambassador Linton F. Brooks
Administrator
National Nuclear Security Administration
NA-1/Forrestal Building
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585

Dear Ambassador Brooks:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I want to thank you for meeting with the Commission on January 11, 2005, and for your letter of February 16, 2005, supporting a common U.S. Government position on international safety and security of radioactive material within the context of the International Atomic Energy Agency (IAEA) Code of Conduct for the Safety and Security of Radioactive Materials.

Our meeting on January 11th was useful as a starting point for our two agencies to discuss the roles and responsibilities of our respective organizations regarding radioactive material security, and the Commission believes that our agencies should continue to have frequent communication on important security issues. The Commission is concerned, however, that issues will continue to arise without sufficient communication, so there continues to be a need for high-level interactions between our agencies.

One area of concern stems from a misunderstanding of the development of threshold values in the Code of Conduct. The technical basis of the Code of Conduct's Category 1 and 2 threshold values was developed from consequence analyses that accounted for radionuclide dispersion, as well as economic and social impacts. The Government of the United States, including the NRC and Department of Energy, were actively involved in establishing the Code of Conduct threshold values. As a result, the Commission chose to use the IAEA Code of Conduct Category 1 and 2 threshold values approach as the basis for enhancing security of radioactive material. We understand that the National Nuclear Security Administration's (NNSA's) Global Threat Reduction Initiative (GTRI) has different priorities and has used different modeling from that used in 2003 to develop the Code of Conduct's list of radionuclides and threshold values. We continue to believe that the GTRI's use of a different set of radionuclides than that contained in the Code of Conduct will be confusing to other Nations, but we recognize NNSA's decision to proceed. On the related matter of your request to modify the threshold values in the Code of Conduct, due to the many ongoing domestic and international initiatives to implement the provisions of the Code, the Commission does not see a need to change the Code at this time.

Nonetheless, it is important for NRC and NNSA to have a consistent approach to securing radioactive materials to effectively achieve our agencies' objectives to promote common defense and security and protect U.S. national security interests. Further, the NNSA and NRC should continue to work together, along with the Department of Homeland Security and other Federal agencies, to converge on the use of a common set of radioactive material source security thresholds. The resulting common security thresholds should provide a consistent national regulatory framework that all agencies can use to achieve their respective goals related to protection against radiological dispersal devices (RDDs). Concomitant with these efforts, Federal agencies need to support the unified U.S. position on the security of radioactive sources and to help the international community implement unified guidance. In this regard, I am pleased to note the successful meeting between NNSA, NRC, and the Departments of State, Transportation, and Homeland Security on March 16, 2005, and the progress that has been made at the working level in agreeing to advance the U.S. Government position in this area.

I also want to thank you for your prompt actions in assisting resolution of the issues of mutual concern that were discussed at our January meeting. I agree that the continuing close cooperation between the NRC and NNSA will benefit from the regular exchanges you propose. These exchanges should serve as an effective venue to address the issues discussed in your letter, as well as matters that may emerge in the future. The NRC staff will be in touch to initiate the monthly teleconferences between appropriate program offices. NRC's point of contact for these discussions is William F. Kane, NRC's Deputy Executive Director for Homeland Protection and Preparedness, who can be reached at (301) 415-1713.

The NRC's draft domestic safeguards orders pertaining to security of radioactive sources that you requested have been provided to NNSA under separate cover. The Commission shares your desire to achieve a common understanding in this area and considers that information to be an appropriate starting point for the staff exchanges. Further, the NRC staff and Commission expect to consider enhancements to the form, scope, and content of NRC security measures, and we plan to use the results of the staff exchanges, as well as the Code of Conduct, to inform these enhancements.

The Commission was pleased to meet with you and have the chance to discuss continuing cooperation on issues of mutual interest concerning the security of radioactive materials.

Sincerely,

/RA/

Nils J. Diaz