

Mr. Daniel Hirsch
Committee to Bridge the Gap
1637 Butler Avenue
Suite 203
Los Angeles, California 90025

SUBJECT: PETITION FOR RULEMAKING PRM-73-12: A PETITION FOR RULEMAKING
FILED BY THE COMMITTEE TO BRIDGE THE GAP

Dear Mr. Hirsch:

I am responding to your letter dated July 23, 2004, in which you submitted a petition for rulemaking (PRM) requesting that the U.S. Nuclear Regulatory Commission (NRC) amend its regulations to upgrade the design basis threat (DBT) and associated requirements. The petition requests that the NRC amend its regulations to upgrade the DBT regulations (in terms of the numbers, teams, capabilities, planning, willingness to die and other characteristics) to a level that encompasses, with a sufficient margin of safety, the terrorist capabilities evidenced by the attacks of September 11, 2001. The petition also requests that security plans, systems, inspections, and force-on-force exercises be revised in accordance with the amended DBT. Finally, the petition requests a requirement be added to Part 73 to construct shields against air attack (the shields are referred to as "beamhenge") such that nuclear power plants would be able to withstand an air attack from a fully loaded jumbo jet similar to what occurred on September 11, 2001.

Your petition was published in the *Federal Register* for comment on November 8, 2004, (69 FR 64690). The public comment period expired on January 24, 2005, and the staff received a large number of public comments including many form letters. Comments were provided by individuals, licensees, states, and public interest groups.

We have decided to partially grant PRM-73-12. The partial granting of PRM-73-12 should be understood to mean that the NRC will consider the issues raised by your petition and the public comments filed on the petition as part of the ongoing rulemaking to revise DBT requirements in § 73.1. The intent of this review is to determine whether there is a need for further expansion of DBT requirements (with the exception of the aspects of your petition which the NRC is denying as discussed below), in light of the issues and concerns you have raised. In this regard, the NRC plans to publish a proposed § 73.1 rule for public comment in the *Federal Register*. In Section V of the proposed § 73.1 rule notice, you will find an evaluation of your petition.

NRC intends to deny the portion of your petition which deals with the defense against aircraft (both in the specific suggested DBT requirements and in the proposed defense structure referred to as "beamhenge"). This determination was based, in part, on the results of detailed assessments conducted by the NRC after the September 11, 2001, attacks in New York and on the Pentagon. These assessments considered both the potential for, and the consequences of, terrorists targeting a nuclear power plant for aircraft attack, the physical effects of such a strike, and compounding factors such as meteorology that would affect the impact of potential

radioactive releases. In conducting these studies, the NRC drew on national experts from several Department of Energy laboratories using state-of-the-art structural and fire analyses. For the facilities analyzed, the vulnerability studies confirm that the likelihood of damaging the reactor core and releasing radioactivity that could affect public health and safety is low. Even in the unlikely event of a radiological release due to terrorist use of a large aircraft, there would be time to implement mitigating actions and offsite emergency plans such that the NRC's emergency planning basis remains valid.

The NRC believes that the most effective strategy for preventing an aircraft attack and protecting our nation's infrastructure continues to be through enhanced measures such as airport passenger and baggage screening, strengthening of cockpit doors and the Air Marshal program.

Additional site-specific studies of operating nuclear power plants are underway or being planned to determine the need, if any, for additional mitigating capability on a site-specific basis. Furthermore, the NRC staff will continue to review intelligence and threat reporting to recommend any appropriate modifications to the DBT.

Sincerely,

Annette Vietti-Cook
Secretary of the Commission.