

June 4, 2006

The Honorable Tom Davis  
Chairman, Committee on Government Reform  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the U.S. Nuclear Regulatory Commission (NRC) and in accordance with 31 U.S.C. 720, I am responding to the recommendations made by the U.S. Government Accountability Office (GAO) in its report entitled "Nuclear Power Plants: Efforts Made to Upgrade Security, but the Nuclear Regulatory Commission's Design Basis Threat Process Should Be Improved" (GAO-06-388). The NRC appreciates the efforts of the GAO in its recently completed review. While the NRC remains vigilant in its oversight responsibilities, review by an objective third party adds value. Since Fall 2003, when the audit began, GAO and the NRC, as well as multiple external stakeholders, have shared significant resources and information, which in the aggregate has produced a quality product. I would like to offer the following information as NRC's comments on GAO's recommendations.

*Separating the Threat Assessment Process From Stakeholder Feedback*

The NRC supports the GAO recommendation that the NRC's Threat Assessment Section (TAS), now the Intelligence Liaison and Threat Assessment Branch (ILTAB), not be responsible for obtaining feedback from stakeholders, including the nuclear industry, regarding a proposed design basis threat (DBT) revision until ILTAB has provided an initial assessment to senior management. Threat assessments completed by ILTAB will rely on information received from the intelligence and law enforcement communities. Feedback from other stakeholders on proposed revisions to a DBT will be initially evaluated by another branch within the NRC's Office of Nuclear Security and Incident Response (NSIR). This maintains an objective assessment while ensuring that all stakeholders' views are responsibly considered. That recommendation already has been implemented, with the responsibility for accepting stakeholder feedback now transferred to other branches within NSIR on an issue-specific basis.

*Establishing Specific Criteria for Commission Decision-making*

In the report, GAO recommended that the Commission develop specific criteria to guide its deliberations to approve changes to the DBT. As indicated in the NRC's Executive Director for Operation's February 23, 2006 correspondence to GAO on the draft report, the NRC takes exception to this specific recommendation. In my testimony before the Committee during the

April 4, 2006 hearing, I also provided my rationale for differing with this recommendation. In sum, the Commission is bound by the Atomic Energy Act and its existing regulations. The Commission has a tested history of experience regarding the DBT revision process. The Commission's statutory decision-making authority does not require, and in fact could be unduly restricted by, detailed prescriptive criteria.

*Further Enhancements to the Force-on-Force Inspection Program*

The NRC endorses the GAO recommendation that NRC continue to evaluate and implement measures to further strengthen the force-on-force (FoF) inspection program. The FoF inspection program is designed to verify and assess the ability of licensees' physical protection systems and security organizations to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security, and do not constitute unreasonable risk to public health and safety. The Commission continues to evaluate and implement measures to strengthen the FOF inspection program. The FoF inspection program evaluates a full range of procedural and technological enhancements for potential inclusion. A significant portion of such initiatives are linked to efforts to minimize artificialities associated with the inspection's exercise protocols. For example, the role of the "controllers" in each exercise is critical to the process of ensuring a safe exercise environment and NRC's assessment of a site's ability to defend against an attack. Currently, the NRC is preparing the "Controller Responsibilities Guideline," which will provide sites and controllers with a comprehensive set of instructions to define more clearly command and control, rules of engagement, and controller training requirements. We expect to complete this guideline in the Summer 2006.

The NRC has an ongoing effort to expand the use of Multiple Integrated Laser Engagement System (MILES) weapons to include shoulder weapons and handguns. This expansion would permit greater flexibility for the Composite Adversary Force (CAF) while simultaneously minimizing the artificiality associated with CAF tactics. NRC has endorsed the integration of Joint Conflict and Tactical Simulation technology (JCATS) to add realism to tabletop exercises conducted as part of the FoF. The technology employs three-dimensional modeling to ensure better assessment of the outcomes of CAF and site-security tactics by minimizing the artificialities associated with most tabletop exercises.

There is no specific action plan for minimizing artificialities; rather, it is woven into the FoF and remains an integral part of planning and research. For the FoF to continue to be successful as a performance-based inspection activity, NRC must ensure that the program emphasizes and leverages technology and human capital. Since the enhanced FoF began in 2004, the Commission has supported integrating a variety of enhancements that help minimize artificialities without sacrificing the margin of personnel safety, which remains the foremost consideration. The NRC staff continues its liaison with counterparts in the Department of Defense and the Department of Energy to observe FoF exercises and share best practices.

In summary, NRC takes its role and statutory responsibility seriously. Each of GAO's recommendations received NRC's attention. While the NRC does not embrace the recommendation concerning adoption of specific decision-making criteria, NRC adopted the separation of the threat assessment process from external stakeholders' feedback and has further efforts under way to improve FoF inspection methodology.

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If you have any questions or comments on this written statement, please contact me.

Sincerely,

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Nils J. Diaz

cc: Representative Henry Waxman

Identical letter sent to:

The Honorable Tom Davis  
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cc: Representative Henry Waxman

The Honorable Susan Collins  
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cc: Senator Joseph I. Lieberman

The Honorable George V. Voinovich  
Chairman, Subcommittee on Clean Air,  
Climate Change, and Nuclear Safety  
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cc: Senator Thomas Carper

The Honorable Ralph M. Hall  
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The Honorable Joe Barton  
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The Honorable Tom Coburn  
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