January 21, 2003

The Honorable Nita M. Lowey
United States House of Representatives
Washington, D.C. 20515

Dear Representative Lowey:

I am responding on behalf of the Nuclear Regulatory Commission (NRC) to your letter of October 30, 2002, in which you raised a number of issues related to nuclear power plant security. I have enclosed a detailed response to the matters raised in your letter.

I appreciate your interest in the NRC and the current actions we have taken to ensure the safety and security of all NRC-licensed activities. Please contact me if you have any further questions.

Sincerely,

/RA/

Richard A. Meserve

Enclosure:
NRC Responses to Congressional Concerns

NRC Responses to Congressional Concerns

Issue* 1*:

The NRC has apparently not taken steps to correct flaws identified in the Project on Government Oversight (POGO) report.

NRC Response:

Immediately following the September 11, 2001 attacks, the NRC issued a series of safeguards and threat advisories (many of which dealt with issues subsequently raised in the POGO report) to the major licensed facilities placing them on a heightened security level. Security across the nuclear industry was enhanced as a result of these actions, and many of the strengthened security measures are now requirements as a result of subsequently issued Interim Compensatory Measures (ICMs) and NRC Orders. The security enhancements include measures to provide additional protection against vehicle bombs, as well as water and land-based assaults. They include requirements for increased security patrols, augmented security forces, additional security posts, increased vehicle standoff distances, tightened facility access controls, and enhanced coordination with the law enforcement and intelligence communities. On September 5, 2002, Chairman Meserve sent a letter to Governor Ridge, to various members of Congress and to other senior officials detailing NRC's accomplishments since September 11, 2001. A copy of that letter to you is attached.

Issues raised in the POGO report concerning guard force fatigue, general fitness, and weapons training requirements among others are under consideration by the staff for further action as part of the NRC's comprehensive review of safeguards and security programs. The Commission has recently approved a staff proposal on the fatigue issue and the staff will be

interacting with licensees and other external stakeholders on the matter. Similarly, the staff will soon be submitting a proposal on training issues.

Issue 2:

A recent *New York Times* article and POGO report describe security personnel at nuclear power plants as suffering from debilitating fatigue, and as being undermanned, underarmed and undertrained.

NRC Response:

The NRC is cognizant of both the *New York Times* article and the POGO report. The NRC has been reviewing the issues raised by POGO since testimony on the matter before the Senate Environment and Public Works Committee on June 5, 2002. The NRC staff assessed the security concerns raised by POGO and verified that the concerns were being addressed in NRC's ongoing efforts to improve the licensees' security and safeguards programs. In fact, the staff has met with the Executive Director of POGO to discuss POGO's findings and concerns.

Following issuance of the POGO report, the NRC's Office of the Executive Director for Operations requested that each of the regional offices review their allegation records to determine whether NRC data supported the assertions in the POGO report with respect to security guards (overtime, fatigue, etc.). The regions reported allegations similar to those in the POGO report at several plants. The staff also reviewed the actual work hours and work schedules of licensees' security personnel over a recent eight-week period. All of this information was factored into the staff's proposed Order on security force work hours, which has been released for public comment.

For the longer term, the NRC also contemplates a rulemaking relating to fatigue that will include security force personnel. The rulemaking will reflect the staff's fatigue-related evaluation of the scientific literature, industry and law enforcement policies and practices, and the experience of other Federal agencies, such as the Departments of Energy, Justice, and Transportation, and the Federal Aviation Administration.

Current NRC requirements for qualification and training of licensee security forces are quite rigorous and specific. Under the requirements, the licensee may not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with 10 CFR Part 73. 50 and Appendix B, " General Criteria for Security Personnel" to Part 73. Qualification and training standards include specific criteria for physical and mental capabilities. Guards must demonstrate physical fitness for assigned security job duties by performing a practical physical test within a specified time period. These qualifications must be confirmed at least every 12 months and include contract security personnel.

The POGO report raises issues as to whether some of these training requirements are rigorous enough. Similar concerns have been raised by guards with NRC inspectors. As mentioned earlier, the Commission expects to receive a proposal from the staff shortly on how to improve these training requirements.

Issue 3: The Design Basis Threat should be revised.

NRC Response:

The NRC is working closely with the National Intelligence community and various Federal agencies in a comprehensive effort to define and evaluate the current threat environment. The culmination of this effort will likely be a revision of the Design Basis Threat (DBT) for radiological sabotage that provides the foundation for the security programs at nuclear power plant licensees and of the DBT for theft or diversion that provides the foundation for security programs at Category I fuel facilities. The Commission's Orders requiring implementation of the ICMs provide adequate security in the current threat environment. The Commission has established a schedule for completion of action on a revised DBT by March 31, 2003.

Issue 4:

Force-on-force exercises should occur biannually. Why has the licensee performance in these exercises ("failed half the time") been so dismal?

NRC Response:

Inspection of security capability is necessary to provide confidence in the adequacy of defensive measures. The NRC staff is planning to conduct full security performance reviews, including force-on-force exercises, at each nuclear power plant on a three-year cycle, instead of the eight-year cycle that had been applied in the past. These reviews have already commenced with enhanced "table-top" exercises (facilitated discussions using credible scenarios) that for the first time involve a wide array of Federal, State, and local law

enforcement and emergency planning officials. The pilot force-on-force exercises using enhanced interim threat capabilities will resume in February 2003.

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Why are there no strong Federal training standards for guards at nuclear plants? In the POGO report, it is stated that industry asserts that personnel receive 270 hours of pre-posting training, 90 hours of recurrent firearms training annually, and 30 hours per year of tactical instruction. Many guards contest that assertion indicating they engage in firearms training only a few hours every year with no moving target practice. The NRC should mandate that guards receive at least as many hours as the executives claim they get.

NRC Response:

10 CFR 73.55(b)(4) requires that licensees establish, maintain, and implement an NRC-approved training and qualifications plan which outlines the processes by which guards, watchmen, armed response persons, and other members of the security organization will be

selected, trained, equipped, tested, and qualified in accordance with Appendix B of Part 73. Appendix B outlines the components of the training and qualification program, including methods of testing and qualification for the individuals to be assigned duties in the security organization.

The NRC regulations also require that armed security guards undergo an annual re-qualification. To ensure that guards are well prepared for duty and the re-qualification exam, many licensees make the firing range available to their security guards for practice throughout the year. Some licensees expect their guards to practice under the conditions of the re-qualification exam.

The regulations associated with guard force training are being reviewed in the comprehensive reevaluation of the security program underway in the NRC and that review will include consideration of the recommendations made in the POGO report. The staff is currently evaluating training upgrades to be forwarded to the Commission in early 2003.

Issue 6:

The Nuclear Security Act, which would establish a Federal nuclear security force will provide the American public with the best security against a terrorist attack. The NRC should adopt the suggested measures above, consistent with that act, to fulfill this obligation.

NRC Response:

The Commission opposes many elements of The Nuclear Security Act (S.1476), while supporting others. We have provided our specific comments on S.1746 to Congress in written correspondence and testimony on several occasions, which are part of the public record and are available on our website (http://www.nrc.gov). Further specific details can be provided upon request.

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. One provision would authorize guards at NRC-regulated facilities to use deadly force to protect property significant to the common defense and security. This would give guards protection from State criminal prosecution for actions taken during the performance of their official duties. Another provision would allow the Commission, in consultation with the Attorney General, to confer upon guards at NRC-designated facilities the authority to possess or use weapons that are comparable to those used by the Department of Energy's guard forces. Some State laws currently preclude private guard forces at NRC-regulated facilities from utilizing a wide range of weapons. Another provision would make it a Federal crime to bring unauthorized weapons and explosives into NRC-licensed facilities. The NRC would also make Federal prohibitions on sabotage

applicable to the operation and construction of certain nuclear facilities. The NRC hopes that these and other more recently developed legislative initiatives, such as in the area of access authorization, will be enacted early in the 108th Congress.

ATTACHMENT

September 5, 2002

The Honorable Nita M. Lowey
United States House of Representatives
Washington, D.C. 20515

Dear Representative Lowey:

As the anniversary of the terrorist attacks of September 11 approaches, the Nation is continuing its efforts to enhance security. Because of the broad public interest in commercial nuclear facilities and activities, I am writing on behalf of the Nuclear Regulatory Commission (NRC) to inform you of where we are and where we are headed in our efforts to enhance safety and security. This letter highlights some of the significant accomplishments of the NRC and our licensees and describes certain ongoing initiatives.

For over 25 years, NRC regulations have required that major NRC licensees maintain rigorous security programs. These facilities are among the best defended and most hardened commercial facilities in the Nation. Nonetheless, in light of the terrorist attacks the Commission launched a comprehensive review of the security and safeguards programs of nuclear power plants and nuclear materials facilities. Although this work is still underway, this review has resulted in a series of Commission actions, and further actions are planned in the coming months.

Immediately following the attacks, the NRC issued a series of safeguards and threat advisories to the major licensed facilities placing them on the highest security level. Security across the nuclear industry was enhanced as a result of these actions, and many of the strengthened security measures are now requirements as a result of subsequently issued NRC Orders. The security enhancements include measures to provide additional protection against vehicle bombs, as well as water and land-based assaults. They include requirements for increased security patrols, augmented security forces, additional security posts, increased vehicle standoff distances, tightened facility access controls, and enhanced coordination with the law enforcement and intelligence communities.

Enhancing access control may be one of the most effective means of preventing a successful attack, because an insider could provide significant assistance to an attacking force. Immediately following the September 11 attacks, we worked with the FBI, the Nuclear Energy Institute, and our licensees to review access lists of employees working at nuclear power plants to identify any individual whose name matched the FBI Watch List. We determined that there were no positive matches. NRC, in coordination with the intelligence and law enforcement community, has also placed special emphasis on strengthening access controls at nuclear facilities. NRC regulations require that individuals having unescorted access to nuclear power plants undergo a background investigation which includes credit checks, employment history, reference examination, psychological testing, and a criminal history check conducted by the FBI. The Orders issued to certain licensees require additional measures, including severe

limitations on temporary unescorted access to sensitive areas of these facilities. We have reduced the processing time for background checks to facilitate careful examination of licensee personnel and contractors. For example, the time for processing criminal history information has been reduced to approximately 24 hours in many cases.

The Commission has completed an initial assessment of power reactor vulnerabilities to intentional malevolent use of commercial aircraft in suicidal attacks and has initiated a broad-ranging research program to understand the vulnerabilities of various classes of facilities to a wide spectrum of attacks. We are developing measures to mitigate any vulnerabilities that are identified. In addition, the Commission has begun a series of bilateral exchanges with our allies on nuclear security vulnerabilities and potential mitigating measures. Although our work in this area is ongoing, the Commission has directed nuclear power plant licensees to develop specific plans and strategies to respond to an event that could result in damage to large areas of their plants from impacts, explosions or fire. In addition, licensees must provide assurance that their emergency planning resources are sufficient to respond to such an event.

The Commission is working closely with other Federal agencies to revise the design basis threat that provides the foundation for the security programs of nuclear power plant licensees. The Commission's Orders to these licensees in February 2002 effectively provide enhanced security in the interim while this work in underway. Full security performance reviews, including force-on-force exercises, will be carried out at each nuclear power plant on a three-year cycle instead of the eight-year cycle that had been used prior to September 11, 2001. These reviews have commenced with table top exercises that for the first time involve a wide array of Federal, State and local law enforcement and emergency planning officials.

In April, we established the Office of Nuclear Security and Incident Response (NSIR) to improve communications and coordination both within and external to the NRC on security and safeguards issues. NSIR is responsible for developing overall safeguards and security policies and is the central point of contact with the Office of Homeland Security. The office also contains our Incident Response organization, including the NRC Headquarters Operations Center, and coordinates with Federal response and law enforcement agencies. It also directs our counter-intelligence, information security and secure communications activities.

The establishment of NSIR has facilitated an increase in the level of interaction among NRC, other Federal agencies, State and local governments, as well as the international community. As a direct result of coordination efforts, the Federal Aviation Administration and the Department of Defense have acted on specific occasions to protect the airspace above nuclear power plants. We have also enhanced our ability to communicate critical, time-sensitive information with licensee sites. We have placed secure telephones in all of our resident inspectors' offices at nuclear power plants and will soon have secure FAX capabilities in these offices as well. We are also in the process of obtaining security clearances for a limited number of licensee officials at each nuclear power plant.

A critical function of NSIR is to manage the NRC Incident Response Program. We continue to maintain around-the-clock operations of the NRC Headquarters Operations Center, which ensures that a cadre of experts are on call to respond to emergencies. The Incident Response Program now provides improved communication capability between and among

Incident Response Centers in our regional offices, and better coordination with other Federal agencies.

The NRC has developed a new Threat Advisory and Protective Measures System in response to Homeland Security Presidential Directive-3. When a new Homeland Security Advisory System (HSAS) threat condition is declared, the NRC will promptly notify affected licensees of the condition and refer them to the predefined protective measures that we have developed for each threat level. The new system for NRC licensees has been formally communicated to licensees, Governors, State Homeland Security Advisors, Federal agency administrators and other appropriate officials. The new system replaces the NRC's 1998 threat advisory system and covers additional classes of licensees not included in NRC's 1998 system.

The Commission has also specified actions for enhancing security at NRC Headquarters and increasing the readiness of the Operations Center. Consistent with the current Yellow (elevated) threat condition, the NRC has enhanced its Headquarters physical security by increasing the number of armed guards, installing perimeter security barriers, and strengthening access controls. Additionally, special mail handling equipment was installed to complement the agency's enhanced security posture. We also conducted a comprehensive redesign of our web site to restrict access to sensitive but unclassified information, while still allowing continued communication with the public on a wide variety of our non-sensitive activities.

The Commission is also actively involved in efforts to defend against possible terrorist use of radiological dispersal devices. Prior to September 11, 2001, the NRC had initiated two programs aimed to reduce the risk of loss of control of radioactive materials. The NRC is helping to fund efforts by the Conference of Radiation Control Program Directors to identify, recover, and manage the proper disposition of unwanted discrete radioactive sources and devices. And NRC initiated a program to increase the control of, and accountability for, generally licensed devices through a registration program for certain devices.

Following the terrorist attacks of September 11, 2001, NRC alerted licensees, suppliers, and shippers of the need to enhance security against the threat of theft of radioactive material. In addition, NRC is conducting a comprehensive evaluation of controls to protect those radioactive materials that constitute the greatest hazard to public health and safety. NRC has established a joint working group with the Department of Energy to evaluate approaches for "cradle-to-grave" control of radioactive sources which might be used in a radiological dispersal devise. As part of the evaluation, the NRC is working with the Agreement States to establish a consolidated listing of higher-risk materials licensees that may be subject to additional requirements for enhanced security measures. The NRC is also reexamining its import and export licensing for these isotopes and is working with the International Atomic Energy Agency on establishing a code of conduct for licensing such materials. The NRC is also working with the Office of Homeland Security and other agencies to ensure that the Federal Government is prepared to respond to an event involving a radiological dispersal device.

Finally, the NRC has provided legislative proposals to Congress detailing specific initiatives that would further enhance security of NRC-licensed activities. These proposals address a spectrum of activities. One provision would authorize guards at NRC-regulated facilities to use deadly force to protect property significant to the common defense and security.

This would give guards protection from State criminal prosecution for actions taken during the performance of their official duties. Another provision would allow the Commission, in consultation with the Attorney General, to confer upon guards at NRC-designated facilities the authority to possess or use weapons that are comparable to those used by the Department of Energy's guard forces. Some State laws currently preclude private guard forces at NRC-regulated facilities from utilizing a wide range of weapons. Another provision would make it a Federal crime to bring unauthorized weapons and explosives into NRC-licensed facilities. The NRC would also make Federal prohibitions on sabotage applicable to the operation and construction of certain nuclear facilities. The NRC is hopeful that these legislative initiatives will be enacted.

The past year has been challenging for the NRC, our licensees, and the Nation. However, the steps taken by the NRC and our licensees were built on a longstanding, solid foundation of strong security and safeguards practices. We have the utmost confidence that our Nation's nuclear facilities remain among the most robust and well protected of any civilian facilities in the country.

Although this letter describes many of our efforts, it is by no means comprehensive. Please feel free to contact me for additional information or if you have specific questions.

Sincerely,

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January 21, 2003

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Washington, D.C. 20515

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Incident Response Centers in our regional offices, and better coordination with other Federal agencies.

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The Commission has also specified actions for enhancing security at NRC Headquarters and increasing the readiness of the Operations Center. Consistent with the current Yellow (elevated) threat condition, the NRC has enhanced its Headquarters physical security by increasing the number of armed guards, installing perimeter security barriers, and strengthening access controls. Additionally, special mail handling equipment was installed to complement the agency's enhanced security posture. We also conducted a comprehensive redesign of our web site to restrict access to sensitive but unclassified information, while still allowing continued communication with the public on a wide variety of our non-sensitive activities.

The Commission is also actively involved in efforts to defend against possible terrorist use of radiological dispersal devices. Prior to September 11, 2001, the NRC had initiated two programs aimed to reduce the risk of loss of control of radioactive materials. The NRC is helping to fund efforts by the Conference of Radiation Control Program Directors to identify, recover, and manage the proper disposition of unwanted discrete radioactive sources and devices. And NRC initiated a program to increase the control of, and accountability for, generally licensed devices through a registration program for certain devices.

Following the terrorist attacks of September 11, 2001, NRC alerted licensees, suppliers, and shippers of the need to enhance security against the threat of theft of radioactive material. In addition, NRC is conducting a comprehensive evaluation of controls to protect those radioactive materials that constitute the greatest hazard to public health and safety. NRC has established a joint working group with the Department of Energy to evaluate approaches for "cradle-to-grave" control of radioactive sources which might be used in a radiological dispersal devise. As part of the evaluation, the NRC is working with the Agreement States to establish a consolidated listing of higher-risk materials licensees that may be subject to additional requirements for enhanced security measures. The NRC is also reexamining its import and export licensing for these isotopes and is working with the International Atomic Energy Agency on establishing a code of conduct for licensing such materials. The NRC is also working with the Office of Homeland Security and other agencies to ensure that the Federal Government is prepared to respond to an event involving a radiological dispersal device.

Finally, the NRC has provided legislative proposals to Congress detailing specific initiatives that would further enhance security of NRC-licensed activities. These proposals address a spectrum of activities. One provision would authorize guards at NRC-regulated facilities to use deadly force to protect property significant to the common defense and security. This would give guards protection from State criminal prosecution for actions taken during the

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The past year has been challenging for the NRC, our licensees, and the Nation. However, the steps taken by the NRC and our licensees were built on a longstanding, solid foundation of strong security and safeguards practices. We have the utmost confidence that our Nation's nuclear facilities remain among the most robust and well protected of any civilian facilities in the country.

Although this letter describes many of our efforts, it is by no means comprehensive. Please feel free to contact me for additional information or if you have specific questions.

Sincerely,

/RA/

Richard A. Meserve

January 21, 2003

The Honorable Jerrold Nadler
United States House of Representatives
Washington, D.C. 20515

Dear Representative Nadler:

I am responding on behalf of the Nuclear Regulatory Commission (NRC) to your letter of October 30, 2002, in which you raised a number of issues related to nuclear power plant security. I have enclosed a detailed response to the matters raised in your letter.

I appreciate your interest in the NRC and the current actions we have taken to ensure the safety and security of all NRC-licensed activities. Please contact me if you have any further questions.

Sincerely,

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Richard A. Meserve

Enclosure:
NRC Responses to Congressional Concerns

NRC Responses to Congressional Concerns

Issue* 1*:

The NRC has apparently not taken steps to correct flaws identified in the Project on Government Oversight (POGO) report.

NRC Response:

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Issues raised in the POGO report concerning guard force fatigue, general fitness, and weapons training requirements among others are under consideration by the staff for further action as part of the NRC's comprehensive review of safeguards and security programs. The Commission has recently approved a staff proposal on the fatigue issue and the staff will be

interacting with licensees and other external stakeholders on the matter. Similarly, the staff will soon be submitting a proposal on training issues.

Issue 2:

A recent *New York Times* article and POGO report describe security personnel at nuclear power plants as suffering from debilitating fatigue, and as being undermanned, underarmed and undertrained.

NRC Response:

The NRC is cognizant of both the *New York Times* article and the POGO report. The NRC has been reviewing the issues raised by POGO since testimony on the matter before the Senate Environment and Public Works Committee on June 5, 2002. The NRC staff assessed the security concerns raised by POGO and verified that the concerns were being addressed in NRC's ongoing efforts to improve the licensees' security and safeguards programs. In fact, the staff has met with the Executive Director of POGO to discuss POGO's findings and concerns.

Following issuance of the POGO report, the NRC's Office of the Executive Director for Operations requested that each of the regional offices review their allegation records to determine whether NRC data supported the assertions in the POGO report with respect to security guards (overtime, fatigue, etc.). The regions reported allegations similar to those in the POGO report at several plants. The staff also reviewed the actual work hours and work schedules of licensees' security personnel over a recent eight-week period. All of this information was factored into the staff's proposed Order on security force work hours, which has been released for public comment.

For the longer term, the NRC also contemplates a rulemaking relating to fatigue that will include security force personnel. The rulemaking will reflect the staff's fatigue-related evaluation of the scientific literature, industry and law enforcement policies and practices, and the experience of other Federal agencies, such as the Departments of Energy, Justice, and Transportation, and the Federal Aviation Administration.

Current NRC requirements for qualification and training of licensee security forces are quite rigorous and specific. Under the requirements, the licensee may not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with 10 CFR Part 73. 50 and Appendix B, " General Criteria for Security Personnel" to Part 73. Qualification and training standards include specific criteria for physical and mental capabilities. Guards must demonstrate physical fitness for assigned security job duties by performing a practical physical test within a specified time period. These qualifications must be confirmed at least every 12 months and include contract security personnel.

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NRC Response:

The NRC is working closely with the National Intelligence community and various Federal agencies in a comprehensive effort to define and evaluate the current threat environment. The culmination of this effort will likely be a revision of the Design Basis Threat (DBT) for radiological sabotage that provides the foundation for the security programs at nuclear power plant licensees and of the DBT for theft or diversion that provides the foundation for security programs at Category I fuel facilities. The Commission's Orders requiring implementation of the ICMs provide adequate security in the current threat environment. The Commission has established a schedule for completion of action on a revised DBT by March 31, 2003.

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Force-on-force exercises should occur biannually. Why has the licensee performance in these exercises ("failed half the time") been so dismal?

NRC Response:

Inspection of security capability is necessary to provide confidence in the adequacy of defensive measures. The NRC staff is planning to conduct full security performance reviews, including force-on-force exercises, at each nuclear power plant on a three-year cycle, instead of the eight-year cycle that had been applied in the past. These reviews have already commenced with enhanced "table-top" exercises (facilitated discussions using credible scenarios) that for the first time involve a wide array of Federal, State, and local law

enforcement and emergency planning officials. The pilot force-on-force exercises using enhanced interim threat capabilities will resume in February 2003.

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selected, trained, equipped, tested, and qualified in accordance with Appendix B of Part 73. Appendix B outlines the components of the training and qualification program, including methods of testing and qualification for the individuals to be assigned duties in the security organization.

The NRC regulations also require that armed security guards undergo an annual re-qualification. To ensure that guards are well prepared for duty and the re-qualification exam, many licensees make the firing range available to their security guards for practice throughout the year. Some licensees expect their guards to practice under the conditions of the re-qualification exam.

The regulations associated with guard force training are being reviewed in the comprehensive reevaluation of the security program underway in the NRC and that review will include consideration of the recommendations made in the POGO report. The staff is currently evaluating training upgrades to be forwarded to the Commission in early 2003.

Issue 6:

The Nuclear Security Act, which would establish a Federal nuclear security force will provide the American public with the best security against a terrorist attack. The NRC should adopt the suggested measures above, consistent with that act, to fulfill this obligation.

NRC Response:

The Commission opposes many elements of The Nuclear Security Act (S.1476), while supporting others. We have provided our specific comments on S.1746 to Congress in written correspondence and testimony on several occasions, which are part of the public record and are available on our website (http://www.nrc.gov). Further specific details can be provided upon request.

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. One provision would authorize guards at NRC-regulated facilities to use deadly force to protect property significant to the common defense and security. This would give guards protection from State criminal prosecution for actions taken during the performance of their official duties. Another provision would allow the Commission, in consultation with the Attorney General, to confer upon guards at NRC-designated facilities the authority to possess or use weapons that are comparable to those used by the Department of Energy's guard forces. Some State laws currently preclude private guard forces at NRC-regulated facilities from utilizing a wide range of weapons. Another provision would make it a Federal crime to bring unauthorized weapons and explosives into NRC-licensed facilities. The NRC would also make Federal prohibitions on sabotage

applicable to the operation and construction of certain nuclear facilities. The NRC hopes that these and other more recently developed legislative initiatives, such as in the area of access authorization, will be enacted early in the 108th Congress.

ATTACHMENT

September 5, 2002

Governor Tom Ridge
Office of Homeland Security
The White House
Washington, D.C. 20502

Dear Governor Ridge:

As the anniversary of the terrorist attacks of September 11 approaches, the Nation is continuing its efforts to enhance security. Because of the broad public interest in commercial nuclear facilities and activities, I am writing on behalf of the Nuclear Regulatory Commission (NRC) to inform you of where we are and where we are headed in our efforts to enhance safety and security. This letter highlights some of the significant accomplishments of the NRC and our licensees and describes certain ongoing initiatives.

For over 25 years, NRC regulations have required that major NRC licensees maintain rigorous security programs. These facilities are among the best defended and most hardened commercial facilities in the Nation. Nonetheless, in light of the terrorist attacks the Commission launched a comprehensive review of the security and safeguards programs of nuclear power plants and nuclear materials facilities. Although this work is still underway, this review has resulted in a series of Commission actions, and further actions are planned in the coming months.

Immediately following the attacks, the NRC issued a series of safeguards and threat advisories to the major licensed facilities placing them on the highest security level. Security across the nuclear industry was enhanced as a result of these actions, and many of the strengthened security measures are now requirements as a result of subsequently issued NRC Orders. The security enhancements include measures to provide additional protection against vehicle bombs, as well as water and land-based assaults. They include requirements for increased security patrols, augmented security forces, additional security posts, increased vehicle standoff distances, tightened facility access controls, and enhanced coordination with the law enforcement and intelligence communities.

Enhancing access control may be one of the most effective means of preventing a successful attack, because an insider could provide significant assistance to an attacking force. Immediately following the September 11 attacks, we worked with the FBI, the Nuclear Energy Institute, and our licensees to review access lists of employees working at nuclear power plants to identify any individual whose name matched the FBI Watch List. We determined that there were no positive matches. NRC, in coordination with the intelligence and law enforcement community, has also placed special emphasis on strengthening access controls at nuclear facilities. NRC regulations require that individuals having unescorted access to nuclear power plants undergo a background investigation which includes credit checks, employment history,

reference examination, psychological testing, and a criminal history check conducted by the FBI. The Orders issued to certain licensees require additional measures, including severe limitations on temporary unescorted access to sensitive areas of these facilities. We have reduced the processing time for background checks to facilitate careful examination of licensee personnel and contractors. For example, the time for processing criminal history information has been reduced to approximately 24 hours in many cases.

The Commission has completed an initial assessment of power reactor vulnerabilities to intentional malevolent use of commercial aircraft in suicidal attacks and has initiated a broad-ranging research program to understand the vulnerabilities of various classes of facilities to a wide spectrum of attacks. We are developing measures to mitigate any vulnerabilities that are identified. In addition, the Commission has begun a series of bilateral exchanges with our allies on nuclear security vulnerabilities and potential mitigating measures. Although our work in this area is ongoing, the Commission has directed nuclear power plant licensees to develop specific plans and strategies to respond to an event that could result in damage to large areas of their plants from impacts, explosions or fire. In addition, licensees must provide assurance that their emergency planning resources are sufficient to respond to such an event.

The Commission is working closely with other Federal agencies to revise the design basis threat that provides the foundation for the security programs of nuclear power plant licensees. The Commission's Orders to these licensees in February 2002 effectively provide enhanced security in the interim while this work in underway. Full security performance reviews, including force-on-force exercises, will be carried out at each nuclear power plant on a three-year cycle instead of the eight-year cycle that had been used prior to September 11, 2001. These reviews have commenced with table top exercises that for the first time involve a wide array of Federal, State and local law enforcement and emergency planning officials.

In April, we established the Office of Nuclear Security and Incident Response (NSIR) to improve communications and coordination both within and external to the NRC on security and safeguards issues. NSIR is responsible for developing overall safeguards and security policies and is the central point of contact with the Office of Homeland Security. The office also contains our Incident Response organization, including the NRC Headquarters Operations Center, and coordinates with Federal response and law enforcement agencies. It also directs our counter-intelligence, information security and secure communications activities.

The establishment of NSIR has facilitated an increase in the level of interaction among NRC, other Federal agencies, State and local governments, as well as the international community. As a direct result of coordination efforts, the Federal Aviation Administration and the Department of Defense have acted on specific occasions to protect the airspace above nuclear power plants. We have also enhanced our ability to communicate critical, time-sensitive information with licensee sites. We have placed secure telephones in all of our resident inspectors' offices at nuclear power plants and will soon have secure FAX capabilities in these offices as well. We are also in the process of obtaining security clearances for a limited number of licensee officials at each nuclear power plant.

A critical function of NSIR is to manage the NRC Incident Response Program. We continue to maintain around-the-clock operations of the NRC Headquarters Operations Center, which ensures that a cadre of experts are on call to respond to emergencies. The Incident

Response Program now provides improved communication capability between and among Incident Response Centers in our regional offices, and better coordination with other Federal agencies.

The NRC has developed a new Threat Advisory and Protective Measures System in response to Homeland Security Presidential Directive-3. When a new Homeland Security Advisory System (HSAS) threat condition is declared, the NRC will promptly notify affected licensees of the condition and refer them to the predefined protective measures that we have developed for each threat level. The new system for NRC licensees has been formally communicated to licensees, Governors, State Homeland Security Advisors, Federal agency administrators and other appropriate officials. The new system replaces the NRC's 1998 threat advisory system and covers additional classes of licensees not included in NRC's 1998 system.

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Sincerely,

/RA/

Richard A. Meserve

January 21, 2003

The Honorable Steven R. Rothman
United States House of Representatives
Washington, D.C. 20515

Dear Representative Rothman:

I am responding on behalf of the Nuclear Regulatory Commission (NRC) to your letter of October 30, 2002, in which you raised a number of issues related to nuclear power plant security. I have enclosed a detailed response to the matters raised in your letter.

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NRC Responses to Congressional Concerns

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ATTACHMENT

September 5, 2002

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Office of Homeland Security
The White House
Washington, D.C. 20502

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Immediately following the attacks, the NRC issued a series of safeguards and threat advisories to the major licensed facilities placing them on the highest security level. Security across the nuclear industry was enhanced as a result of these actions, and many of the strengthened security measures are now requirements as a result of subsequently issued NRC Orders. The security enhancements include measures to provide additional protection against vehicle bombs, as well as water and land-based assaults. They include requirements for increased security patrols, augmented security forces, additional security posts, increased vehicle standoff distances, tightened facility access controls, and enhanced coordination with the law enforcement and intelligence communities.

Enhancing access control may be one of the most effective means of preventing a successful attack, because an insider could provide significant assistance to an attacking force. Immediately following the September 11 attacks, we worked with the FBI, the Nuclear Energy Institute, and our licensees to review access lists of employees working at nuclear power plants to identify any individual whose name matched the FBI Watch List. We determined that there were no positive matches. NRC, in coordination with the intelligence and law enforcement community, has also placed special emphasis on strengthening access controls at nuclear facilities. NRC regulations require that individuals having unescorted access to nuclear power plants undergo a background investigation which includes credit checks, employment history,

reference examination, psychological testing, and a criminal history check conducted by the FBI. The Orders issued to certain licensees require additional measures, including severe limitations on temporary unescorted access to sensitive areas of these facilities. We have reduced the processing time for background checks to facilitate careful examination of licensee personnel and contractors. For example, the time for processing criminal history information has been reduced to approximately 24 hours in many cases.

The Commission has completed an initial assessment of power reactor vulnerabilities to intentional malevolent use of commercial aircraft in suicidal attacks and has initiated a broad-ranging research program to understand the vulnerabilities of various classes of facilities to a wide spectrum of attacks. We are developing measures to mitigate any vulnerabilities that are identified. In addition, the Commission has begun a series of bilateral exchanges with our allies on nuclear security vulnerabilities and potential mitigating measures. Although our work in this area is ongoing, the Commission has directed nuclear power plant licensees to develop specific plans and strategies to respond to an event that could result in damage to large areas of their plants from impacts, explosions or fire. In addition, licensees must provide assurance that their emergency planning resources are sufficient to respond to such an event.

The Commission is working closely with other Federal agencies to revise the design basis threat that provides the foundation for the security programs of nuclear power plant licensees. The Commission's Orders to these licensees in February 2002 effectively provide enhanced security in the interim while this work in underway. Full security performance reviews, including force-on-force exercises, will be carried out at each nuclear power plant on a three-year cycle instead of the eight-year cycle that had been used prior to September 11, 2001. These reviews have commenced with table top exercises that for the first time involve a wide array of Federal, State and local law enforcement and emergency planning officials.

In April, we established the Office of Nuclear Security and Incident Response (NSIR) to improve communications and coordination both within and external to the NRC on security and safeguards issues. NSIR is responsible for developing overall safeguards and security policies and is the central point of contact with the Office of Homeland Security. The office also contains our Incident Response organization, including the NRC Headquarters Operations Center, and coordinates with Federal response and law enforcement agencies. It also directs our counter-intelligence, information security and secure communications activities.

The establishment of NSIR has facilitated an increase in the level of interaction among NRC, other Federal agencies, State and local governments, as well as the international community. As a direct result of coordination efforts, the Federal Aviation Administration and the Department of Defense have acted on specific occasions to protect the airspace above nuclear power plants. We have also enhanced our ability to communicate critical, time-sensitive information with licensee sites. We have placed secure telephones in all of our resident inspectors' offices at nuclear power plants and will soon have secure FAX capabilities in these offices as well. We are also in the process of obtaining security clearances for a limited number of licensee officials at each nuclear power plant.

A critical function of NSIR is to manage the NRC Incident Response Program. We continue to maintain around-the-clock operations of the NRC Headquarters Operations Center, which ensures that a cadre of experts are on call to respond to emergencies. The Incident

Response Program now provides improved communication capability between and among Incident Response Centers in our regional offices, and better coordination with other Federal agencies.

The NRC has developed a new Threat Advisory and Protective Measures System in response to Homeland Security Presidential Directive-3. When a new Homeland Security Advisory System (HSAS) threat condition is declared, the NRC will promptly notify affected licensees of the condition and refer them to the predefined protective measures that we have developed for each threat level. The new system for NRC licensees has been formally communicated to licensees, Governors, State Homeland Security Advisors, Federal agency administrators and other appropriate officials. The new system replaces the NRC's 1998 threat advisory system and covers additional classes of licensees not included in NRC's 1998 system.

The Commission has also specified actions for enhancing security at NRC Headquarters and increasing the readiness of the Operations Center. Consistent with the current Yellow (elevated) threat condition, the NRC has enhanced its Headquarters physical security by increasing the number of armed guards, installing perimeter security barriers, and strengthening access controls. Additionally, special mail handling equipment was installed to complement the agency's enhanced security posture. We also conducted a comprehensive redesign of our web site to restrict access to sensitive but unclassified information, while still allowing continued communication with the public on a wide variety of our non-sensitive activities.

The Commission is also actively involved in efforts to defend against possible terrorist use of radiological dispersal devices. Prior to September 11, 2001, the NRC had initiated two programs aimed to reduce the risk of loss of control of radioactive materials. The NRC is helping to fund efforts by the Conference of Radiation Control Program Directors to identify, recover, and manage the proper disposition of unwanted discrete radioactive sources and devices. And NRC initiated a program to increase the control of, and accountability for, generally licensed devices through a registration program for certain devices.

Following the terrorist attacks of September 11, 2001, NRC alerted licensees, suppliers, and shippers of the need to enhance security against the threat of theft of radioactive material. In addition, NRC is conducting a comprehensive evaluation of controls to protect those radioactive materials that constitute the greatest hazard to public health and safety. NRC has established a joint working group with the Department of Energy to evaluate approaches for "cradle-to-grave" control of radioactive sources which might be used in a radiological dispersal devise. As part of the evaluation, the NRC is working with the Agreement States to establish a consolidated listing of higher-risk materials licensees that may be subject to additional requirements for enhanced security measures. The NRC is also reexamining its import and export licensing for these isotopes and is working with the International Atomic Energy Agency on establishing a code of conduct for licensing such materials. The NRC is also working with the Office of Homeland Security and other agencies to ensure that the Federal Government is prepared to respond to an event involving a radiological dispersal device.

Finally, the NRC has provided legislative proposals to Congress detailing specific initiatives that would further enhance security of NRC-licensed activities. These proposals address a spectrum of activities. One provision would authorize guards at NRC-regulated

facilities to use deadly force to protect property significant to the common defense and security. This would give guards protection from State criminal prosecution for actions taken during the performance of their official duties. Another provision would allow the Commission, in consultation with the Attorney General, to confer upon guards at NRC-designated facilities the authority to possess or use weapons that are comparable to those used by the Department of Energy's guard forces. Some State laws currently preclude private guard forces at NRC-regulated facilities from utilizing a wide range of weapons. Another provision would make it a Federal crime to bring unauthorized weapons and explosives into NRC-licensed facilities. The NRC would also make Federal prohibitions on sabotage applicable to the operation and construction of certain nuclear facilities. The NRC is hopeful that these legislative initiatives will be enacted.

The past year has been challenging for the NRC, our licensees, and the Nation. However, the steps taken by the NRC and our licensees were built on a longstanding, solid foundation of strong security and safeguards practices. We have the utmost confidence that our Nation's nuclear facilities remain among the most robust and well protected of any civilian facilities in the country.

Although this letter describes many of our efforts, it is by no means comprehensive. Please feel free to contact me for additional information or if you have specific questions.

Sincerely,

/RA/

Richard A. Meserve

Identical letter sent to:

The Honorable Nita M. Lowey
United States House of Representatives
Washington, D.C. 20515

The Honorable Eliot L. Engel
United States House of Representatives
Washington, D.C. 20515

The Honorable Jerrold Nadler
United States House of Representatives
Washington, D.C. 20515

The Honorable Steven R. Rothman
United States House of Representatives
Washington, D.C. 20515