

October 14, 2004

The Honorable Christopher Shays, Chairman  
Subcommittee on National Security,  
Emerging Threats, and International Relations  
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), I want to express my appreciation to you and the other Members of the Subcommittee on National Security, Emerging Threats, and International Relations for holding the September 14, 2004 oversight hearing to examine the NRC's security enhancements for nuclear power facilities. The Commission was pleased to have Mr. Luis A. Reyes, NRC's Executive Director for Operations, and Mr. Roy Zimmerman, Director of the Office of Nuclear Security and Incident Response, update the Subcommittee on recent actions the NRC has taken to enhance the security of NRC-regulated nuclear facilities and radioactive materials. However, the Commission would like to take this opportunity to address some of the Members' concerns on this vitally important subject.

Nuclear security is a top priority for the NRC. As the Government Accountability Office (GAO) pointed out in its testimony, following the September 11, 2001 terrorist attacks, the NRC immediately placed nuclear power plants and other facilities at the highest level of alert. NRC responded quickly and decisively to strengthen existing security at these facilities. A very important point, which is not specifically addressed in the GAO testimony, is the fact that the NRC inspected every nuclear plant to verify licensee implementation of agency Orders requiring enhanced security measures. Subsequently, additional Orders were issued regarding site access authorization, the design basis threat, and security guard training and qualification. The NRC continues to inspect licensee compliance with these Orders under the revised baseline inspection program. I can assure you that the NRC's oversight of nuclear plant security involves a lot more than just a "paper review"; in fact, it is a hands-on, day-in and day-out inspection and assessment process.

The NRC conducts on-site inspections by security specialists assigned to the Regional Offices and, by 2003, this direct inspection effort had increased more than 50 percent beyond the effort extended annually before the terrorist attacks. This does not include the significantly enhanced force-on-force exercises discussed below. In addition, there are at least two NRC resident inspectors at each of the nuclear power plant sites who maintain daily vigilance over matters of nuclear safety as well as other regulatory activities at the site, including security. Inspection findings are reported to the Regional Offices for followup and coordination with Headquarters when necessary.

The NRC has continued to improve its security performance evaluation program (i.e., force-on-force exercises), which the Commission considers to be an important element for ensuring protection of the Nation's critical infrastructure. In February 2003, the NRC resumed the force-on-force exercises in the form of a pilot program to test recent enhancements. In February 2004, the NRC began a transition force-on-force program, which incorporated the lessons learned during the pilot program. The transition program follows the same format as the pilot program; however, the "mock adversary" force now uses the characteristics of the Design Basis Threat (DBT), as enhanced and supplemented by Orders, to prepare for resumption of the full security performance assessment program in November 2004. Under that program, the NRC will conduct approximately 22 force-on-force exercises per year so that each site's security will undergo an NRC-evaluated exercise at least once every three years. This represents a significant increase in the exercise frequency; in addition, each plant is required to conduct independent exercises at least once each year.

During the pilot program, the NRC identified the need to improve the offensive capabilities, consistency, and effectiveness of the exercise adversary force. The Commission addressed this need by directing the staff to develop a training standard for a Composite Adversary Force (CAF). The NRC staff is responsible for selecting the mock attack scenarios, overseeing the performance of the CAF, and evaluating the adequacy of the site's security. The CAF for a given NRC-evaluated force-on-force exercise will be comprised of security officers from various nuclear power facilities (excluding the site being evaluated) and will have been trained in offensive, rather than defensive, skills to perform the adversary function. During the hearing, some Subcommittee Members expressed concern regarding a potential conflict of interest on the part of the contractor selected by the industry (Wackenhut Corporation) to supply the CAF members. The Commission shares these concerns and for that reason has directed the staff to take appropriate actions to ensure the independence of the CAF. It is important to emphasize that the CAF members do not evaluate site security. Their role is to provide a credible adversary force that meets standards for training, fitness, and tactical skills that have been established by the NRC. In addition, administrative controls have been established within the industry's CAF contractor to ensure that the CAF includes members from sites not protected by Wackenhut, that CAF members will not participate in NRC-evaluated exercises at the site from which they came, and that the CAF remains organizationally independent of the portion of Wackenhut that provides security services to the sites.

Another question that Members of the Subcommittee raised during the hearing dealt with NRC's treatment of non-cited violations. Both cited and non-cited security violations are documented in NRC's inspection reports. Security violations associated with the implementation of the recently issued Orders are reviewed by an NRC panel to determine their significance and priority for followup. NRC inspectors follow up on all violations that are considered significant. In addition to security-related inspections, NRC inspectors routinely evaluate the adequacy of each licensee's program for identifying and resolving plant problems. This includes samples in each cornerstone of the inspection program throughout the year, as well as a broad overview of each licensee's problem identification and resolution program conducted biennially. In these inspections, the NRC appropriately focuses on the issues of safety and security significance. I can assure you that NRC will take prompt and appropriate enforcement action if these inspections reveal programmatic issues with the licensee's corrective actions to address previously identified violations.

The Commission is confident that nuclear power plants continue to be among the best protected private sector facilities in the Nation, and the NRC is absolutely committed to ensuring strong security at these facilities. As Mr. Luis A. Reyes emphasized at the hearing, there are several legislative proposals which would grant the NRC the statutory authority for steps that the Commission believes should be taken to enhance further the protection of the country's nuclear infrastructure and prevent malevolent use of radioactive material. The support of your Subcommittee in helping to enact these legislative proposals would be greatly appreciated. The details on the needed legislative proposals were provided to you with the NRC's written testimony.

I appreciate the Subcommittee's continued interest in the NRC's oversight of the nuclear power facilities. If you need further information, please do not hesitate to contact me.

Sincerely,

*/RA/*

Nils J. Diaz

cc: Representative Dennis J. Kucinich, Ranking Member  
Representative Michael R. Turner, Vice Chairman