



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

April 4, 2006

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USNRC

April 5, 2006 (8:40am)

OFFICE OF THE  
SECRETARY

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

MEMORANDUM TO FILES

FROM:

Emile L. Julian  
Assistant for Rulemakings  
and Adjudications

A handwritten signature in cursive script, reading "Emile L. Julian", is written over the typed name and title.

SUBJECT:

FORM COMMENTS SUBMITTED IN RESPONSE TO REQUEST FOR  
COMMENTS ON PR-73 (70FR67380)

Attached is a representative sample of 14 identical e-mails submitted in response to  
the Federal Register Notice on PR-73, the proposed rule on "Design Basis Threat."

Additionally, attached is a list of persons who submitted identical e-mails.

Attachments: As stated

**From:** "Jill Z" <jzk@charter.net>  
**To:** <SECY@nrc.gov>  
**Date:** Sat, Jan 21, 2006 11:24 PM  
**Subject:** Comments re: DBT proposed rule RIN 3150-AH60

COMMENTS ON NRC PROPOSED RULE REGARDING DESIGN BASIS THREAT FOR PROTECTION  
OF NUCLEAR FACILITIES AGAINST

SABOTAGE AND THREAT OF STRATEGIC SPECIAL NUCLEAR MATERIAL

RIN 3150-AH60

To: SECY@nrc.gov

January 23, 2006

I am submitting comments regarding the U.S. Nuclear Regulatory Commission's ("NRC's") proposed rule entitled "Design Basis Threat" ("DBT"). The proposed rule was published in the Federal Register on November 7, 2005, at 70 Fed. Reg. 67,380.

For the reasons stated below, I find the proposed rule unacceptable, and I unreservedly support the more precise comments submitted by the San Luis Obispo Mothers for Peace and the Union of Concerned Scientists.

The proposed rule is the first NRC security-related rulemaking since the terrorist attacks of September 11, 2001, and I find it grossly deficient. The Commission promised the public a complete re-evaluation of its security regulations over four years ago, and this belated proposal is unclear, incomplete, and dishonest.

The NRC has failed to meet the challenges of the post-9/11 environment, for the revised DBT excludes the crucial adversary characteristics of the 9/11 attackers: the ability to operate as more than two teams or the capacity to carry out an airborne attack. By failing to include any proposal for protecting nuclear facilities from these characteristics, the NRC makes it clear that it has no plans to ensure that the public will be protected from a 9/11-style terrorist attack. Moreover, despite its claims to have "enhanced" the "adversary characteristics" of the pre-9/11 DBT, the NRC has actually weakened the standard for protection of strategic special nuclear material against theft by reducing the maximum number of hypothetical adversary teams from three to two.

I am also concerned that the NRC appears to have relied on unlawful cost considerations to limit the scope of the DBT by stating that a licensee should only have to defend against a DBT "which a private security force could reasonably be expected to defend." NRC safety and security regulations must be based on a determination of what is necessary to protect public health and safety, not a judgment of what

is affordable to the licensee. And if the NRC has relied on some considerations other than costs, it has failed to explain its rationale, which constitutes a violation of the Administrative Procedure Act. Furthermore, it appears that the NRC's limitations on the scope of the DBT are based on secret comments from the nuclear industry which the NRC has not summarized for the general public. This is also a violation of the Administrative Procedure Act.

Submitted by:

Jill ZamEk

1123 Flora Rd.

Arroyo Grande, CA

**Mail Envelope Properties** (43D308ED.E1A : 1 : 24090)

**Subject:** Comments re: DBT proposed rule RIN 3150-AH60  
**Creation Date:** Sat, Jan 21, 2006 11:23 PM  
**From:** "Jill Z" <jzk@charter.net>  
**Created By:** jzk@charter.net

**Recipients**  
nrc.gov  
owf5\_po.OWFN\_DO  
SECY (SECY)

<b>Post Office</b>	<b>Route</b>
owf5_po.OWFN_DO	nrc.gov

<b>Files</b>	<b>Size</b>	<b>Date &amp; Time</b>
MESSAGE	2733	Saturday, January 21, 2006 11:23 PM
TEXT.htm	6078	
Mime.822	11211	

**Options**  
**Expiration Date:** None  
**Priority:** Standard  
**Reply Requested:** No  
**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard

<b>PR-073 (70FR67380) re Design Basis Threat</b>	<b>Form Letters No. 4</b>	<b>Total: 14</b>
Jill ZamEk 1123 Flora Road Arroyo Grande, CA	Betty McElhill 1301 Los Olivos Ave., Apt. W Los Osos, CA 93402	June Cochran
Gabor Bethlenfalvay 255 Hermosa Way San Luis Obispo, CA 93405	L. Jane Swanson 475 Squire Canyon Road San Luis Obispo, CA 93401	Geoff Godfrey 3956 Dean Drive Ventura, CA 93003
Richard Crawford 1275 Drake Circle San Luis Obispo, CA 93405	Elaine E. Holder 142 N. Tassajara Drive San Luis Obispo, CA 93405	Jordan Ek
Doug and Lee Buckmaster 1965 Emmons Road Cambria, CA 93428	Russell Hodin 1570 Hansen Lane San Luis Obispo, CA 93401	Vita Miller 1205 Bay Oaks Drive Los Osos, CA 93402
Susan Biesek 2829 See Canyon Road San Luis Obispo, CA 93405	Tom and Nacy Norwood 467 Luneta Drive San Luis Obispo, CA 93405	