STATEMENT SUBMITTED

BY THE

UNITED STATES NUCLEAR REGULATORY COMMISSION

TO THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

COMMITTEE ON ENERGY AND COMMERCE

UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

NUCLEAR POWER PLANT SECURITY

SUBMITTED BY

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CHAIRMAN

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Mr. Chairman and Members of the Subcommittee, I am pleased to have been invited to appear before you, on behalf of the United States Nuclear Regulatory Commission (NRC), to discuss programs related to safeguards and security for NRC-licensed commercial nuclear facilities, and to discuss the actions that NRC and its licensees have taken in response to the terrorist acts that occurred on September 11th.

Post September 11th Commission Activities

Shortly after the second airplane crash into the World Trade Center on September 11, the NRC activated its Emergency Operations Center and the Regions activated their Incident Response Centers. We immediately issued a notice to advise all nuclear power plants, non-power reactors, nuclear fuel facilities, gaseous diffusion plants, and decommissioning reactors to go to the highest level of security and they promptly did. Our licensees have remained at the highest level of security alert since that time. We have maintained a steady flow of information with our licensees through some 20 updates to the original threat advisory, regular communications between the Regional Administrators and licensees, audits of licensee activities, and numerous interactions with various stakeholders. The NRC's Executive Team meets on a regular basis to discuss our interactions with other government agencies, any changes in the current threat environment, and any additional actions that should be considered. My fellow Commissioners are engaged in the process; they receive frequent briefings and provide me with the benefit of their views.

Let me emphasize that there has been no credible threat against NRC-licensed facilities since September 11. However, we have maintained 24-hour per day operation of NRC's Emergency Operations Center. This effort has principally involved our safeguards team. This group receives a substantial and steady flow of information from the intelligence community, law enforcement, and licensees that requires prompt evaluation to determine whether to advise licensees about any changes in the threat environment in general or for a particular plant.

Let me provide you with an example. The NRC received information in the early evening in mid-October about an impending air attack on the Three Mile Island nuclear power plant that could not be discounted by the law enforcement and intelligence communities. This resulted in immediate notification of the licensee for Three Mile Island, the establishment of a no-fly zone by the Federal Aviation Administration (FAA), and the deployment of military assets. Although by early the next morning a determination was made that this threat was not credible, NRC, other Federal agencies, and the licensee were obliged to act quickly because no one was able initially to discredit the threat. The continuous operation of the NRC Emergency Operations Center has allowed the real-time evaluation of such potential threats, as well as the prompt assessment of numerous suspicious events (e.g., flyovers, surveillance activities) that have been reported to us by licensees, local law enforcement, or others.

The NRC has also worked closely with the Federal Bureau of Investigation (FBI), the Federal Emergency Management Agency, the Department of Energy, the FAA, the military, State governments and others in order to coordinate our activities. The NRC has been directly involved with activities at the FBI's Strategic Information Operations Center (or SIOC) since September 11. The SIOC has provided a means for Government-wide review of our threat advisories and for rapid communication among Federal agencies. For example, the evaluation and analysis of the information from the intelligence and law enforcement communities is coordinated through the SIOC. The NRC is also directly involved in the deliberations of the new Office of Homeland Security.

Physical Security Review

The NRC's primary focus and responsibility is to ensure adequate protection of public health and safety and promotion of the common defense and security in the peaceful use of Atomic Energy Act materials. We fulfill this responsibility by establishing and refining requirements and programs intended to protect licensed facilities and nuclear materials against both radiological

sabotage and theft or diversion. Shortly after the September 11 attacks I, with the full support of the Commission, directed the staff to undertake a top-to-bottom review of every aspect of our security requirements.

Nothing is off the table. We must assure ourselves that our security regime is appropriate to the new circumstances presented by the current terrorist threat. Fortunately, we are not starting with a blank slate; the NRC has always taken security very seriously.

Nuclear power plants and other major nuclear facilities subject to NRC regulation must implement security programs that include site access controls, intruder detection systems, central alarm stations, physical barriers, armed guard forces, and detailed response strategies. The result is that nuclear power plants are among the most hardened facilities in this country. The NRC inspects these facilities to verify compliance with NRC requirements, to assess the licensee safety and safeguards performance, and to enforce our regulations in a manner that ensures adequate protection of the health and safety of the public.

The NRC requires that commercial power reactors have the capability to defend against certain defined security threats, referred to as a Design Basis Threat. The Design Basis Threat is specified in general terms in our regulations (10 C.F.R. § 73.1) and in greater detail in sensitive documents. It assumes that the adversaries will consist of a number of well-trained and dedicated individuals with knowledge of the facility, armed with weapons up to and including automatic weapons and specialized equipment, such as incapacitating agents and explosives. It also envisions use of land vehicles and a potential vehicle bomb. The Design Basis Threat was established by the Commission with the assistance of other agencies and is based on evaluation of terrorist-related information from abroad and the United States. As it happens, in the pre-September 11 world the Design Basis Threat served both as the definition of our licensees' security obligation and as the NRC's assessment of the reasonably likely sabotage

threat. Although it was perhaps implicit that Government bears the responsibility for defense against attacks that exceed the Design Basis Threat,[1] only limited preparations had been undertaken for defense against a threat larger than or different from the Design Basis Threat. This is understandable because the need for governmental resources was not viewed as very likely.

September 11 obviously revealed a type of attack -- a suicidal assault using a large commercial aircraft -- that has not been part of the NRC's design basis threat (or that of any other agency with similar responsibilities). There are other aspects of the September 11 attack and the subsequent assessments that may require the NRC and its licensees to re-evaluate the type of assault that might be mounted against a nuclear plant. As a result, on an interim basis, the security at nuclear plants has been upgraded.

As part of the top-to-bottom review the Commission is reexamining the Design Basis Threat and will modify it, as appropriate. As in the past, the NRC will coordinate its evaluation with various other agencies of Government. We also anticipate the need to discuss how to deal with beyond design basis threats with the military, the Office of Homeland Security, the States, and local law enforcement. The definition of the appropriate boundary between the private and public sectors in the defense of nuclear facilities is a difficult task, but one that must be accomplished. We, as part of the U.S. Government, believe that this evaluation should be conducted in the context of the entire vulnerable infrastructure. Nuclear power plants have been the best defended and most hardened targets among critical infrastructure facilities and they should remain among the best. The public sector, whether at the Federal, State or local level, needs to examine the assignment of resources to deal with beyond design basis threats

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[1]NRC regulations provide that licensees are not required to protect against the effects of attacks or destructive acts directed against a facility by an enemy of the United States.

to nuclear facilities, together with the assignment of resources to protect less well-defended, less hardened facilities against threats beyond their means to defeat.

Security Information Review

We are also re-evaluating the agency's ability to communicate with the press, the public and interested parties regarding information relevant to security and physical protection of our licensees. As a general matter, we are rethinking just how open we can and should be with respect to physical security issues. Prior to September 11, the NRC provided to the public via NRC's Website or its electronic ADAMS database, most documents pertinent to its regulatory regime, including extensive information on individual plant design and operation. In light of the events of September 11, which showed that some of the information that the NRC had made available to the public via the Internet could be of potential use to terrorists, the NRC shut down public access to these electronically available documents and removed some documents from our Public Document Room. The NRC is now carefully reviewing the policy for publishing material on our Website. In the interim, we have restored public meeting notices, pertinent information on agency rulemaking proceedings, electronic reading room material, information about reporting a safety concern, and access to a large number of documents in our ADAMS database.

In the past, when the adequacy of security plans was an issue in licensing proceedings, parts of hearings were closed to the general public, and non-disclosure agreements were required from the parties and their attorneys. If, as seems likely, security will play an increasing role in NRC deliberations, it may be necessary to consider more limitations on public discussions. It would be premature to make recommendations at this time about our general approach to public access to information. I can only say that we will give due regard to two vital but competing interests. The first is the public's right to know, a right that is grounded in law and is

one of the most cherished principles of our democracy. The other is the need to keep sensitive information away from those whose purpose is to destroy that democracy. The Commission will strive to strike an appropriate balance between them.

As part of its ongoing re-examination process, the agency is examining issues related to withholding critical infrastructure information from the public. If the NRC determines that additional authority is needed to protect such information, the NRC will seek the necessary legislation.

Legislative Needs

In recent months, many members of Congress have asked the Nuclear Regulatory Commission how they can help to improve the security at nuclear power plants. In response, the Commission has requested that before Congress adjourns for the year it enact the four legislative proposals. These proposals would: (1) authorize guards at NRC regulated facilities to carry and use firearms to protect property of significance to the common defense and security (this provision is aimed at giving guards some protection from State criminal prosecution for actions taken during the performance of their official duties); (2) make it a Federal crime to bring unauthorized weapons and explosives into NRC licensed facilities; (3) make Federal prohibitions on sabotage applicable to the operation and construction of certain nuclear facilities (such as nuclear reactors, enrichment and fuel fabrication facilities); and (4) confer upon guards at NRC designated facilities the authority to possess or use weapons that are comparable to those available to the Department of Energy guard forces to protect against the Design Basis Threat. Some State laws currently preclude private guard forces at NRC regulated facilities from utilizing a wide range of weapons.

Recently legislation has been introduced which would, among other things, Federalize the security at nuclear facilities by directing the NRC to establish a security force for sensitive nuclear facilities. The Commission strongly opposes the enactment of such legislation for five reasons.

First, the security for nuclear facilities should be addressed in the context of the protection of other sensitive infrastructure. Society should allocate its security resources in accordance with relative risk, and, as a result, the separation of nuclear facilities from all other types of sensitive infrastructure will fragment the analysis inappropriately.

Second, the bill would preempt the detailed consideration that the Commission has underway as to how to deal with the new security environment. There are many significant issues that require careful consideration and analysis by many Federal agencies. Until that process has been completed, it appears premature to enact legislation addressing the fundamental security framework of nuclear facility security.

Third, the requirement in the bill that the NRC establish a security force for sensitive nuclear facilities addresses a non-existent problem. Current security forces at sensitive NRC nuclear facilities are well-trained, well paid, and have high retention rates. This is in sharp contrast to airport security before the recent improvements. There have been no failures in nuclear plant security of the type that has plagued the commercial airline industry and thus no need for such radical change.

Fourth, the bill would bring about a fundamental shift in the responsibility and mission of the NRC, diverting the agency from being an independent regulator of nuclear safety and security to being a provider of nuclear security. The legislation would create command and control issues because it would establish two classes of employees at nuclear sites -- licensee staff to

assure the safe operation of the reactors and federal staff to assure security. This could lead to conflicts and confusion in emergency situations, which would diminish nuclear safety.

Fifth, the change would serve to increase the federal budget needlessly. Presumably, given the enhancement in the security threat against which the guard force would be required to defend in accordance with the proposed legislation, the NRC would be required to hire more guards than currently exists at sensitive nuclear facilities -- that is, more than 7,000 new federal workers, which is more than twice the number of staff now employed by the NRC. These new workers would have to undergo extensive background checks, would have to be trained and qualified, and would have to be armed and equipped. The training of this force alone would likely overload any federal law enforcement agency's training capability. Moreover, presumably the NRC would have to assume the responsibility for establishment of new security barriers and communications capabilities at the nuclear facilities (which by itself raises complicated issues associated with the interplay of security barriers and safety considerations). We estimate that the additional cost to the federal government to implement these changes may well be over $1 billion a year -- all to address a non-existent problem.

In sum, the Commission does not believe such legislation is needed. In the Commission's view, the qualified, trained, and tightly regulated private guard forces at nuclear plants should not be replaced by a new federal security force.

Conclusion

In closing, I would like to reiterate that the NRC continues to fulfill its obligations to ensure adequate protection of the public health and safety from acts of sabotage, theft, or diversion directed at the Nation's civilian nuclear facilities and materials. We believe that we had an excellent physical protection program in place prior to September 11, and we are prepared to

build on that solid foundation. We look forward to working with the Congress to ensure adequate protection of nuclear facilities. I appreciate your invitation to be here today to discuss the NRC's programs and am prepared to answer your questions.