



# NRC NEWS

U.S. NUCLEAR REGULATORY COMMISSION

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## REMARKS

by

The Honorable Edward McGaffigan, Jr.  
Commissioner  
U.S. Nuclear Regulatory Commission

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I appreciate the opportunity to appear before this gathering for the sixth time. Indeed, this is the sixth regulatory information conference for three Commissioners, Commissioner Dicus, Commissioner Diaz and myself. I have not done the arithmetic, but I believe that you now have the most experienced Commission in NRC's history with three of us in our second terms. Most importantly, in recent years we have had full five-member Commissions. The White House personnel office in both the final years of the Clinton administration and the first year of the Bush administration has done a good job of making timely appointments or reappointments, and I look forward to similar positive action in the future.

Obviously, the career staff of the agency does the every-day heavy lifting on the wide range of issues that confront us. And I want to commend them for the tremendous work they have done throughout this past year and particularly since September 11. But I also think that having a seasoned Commission has helped us stay on a steady course in recent years. In much of government there is so much turnover at senior levels, even in the absence of elections, that the senior people are barely around long enough to recognize the problems before they are gone. This Commission has been around long enough to recognize problems, to set in place policies to resolve those problems, and even to see the fruits of the success of those policies in a wide range of areas.

A few years ago at this conference I commented on the six simultaneous miracles that an overworked staff was being challenged to perform. It is remarkable that they have largely succeeded in performing those miracles in the years since.

The license renewal process is a resounding success. The revised oversight process, which involved a fundamental overhaul and integration of our inspection, assessment and enforcement processes, has been a tremendous success, although we still see areas for improvement and are committed to making those improvements. We have markedly improved the timeliness of our license amendment process and have not been an impediment to the remarkable consolidation taking place in the industry. I am convinced that this consolidation is bringing further improvements in safety to the industry. We have met the challenge posed by the tremendous growth in independent spent fuel storage facilities. We have certified a wide range of casks, including dual-purpose casks, and established a stable, timely and predictable process for certifications and amendments to certifications. Even in the area of risk-informed regulation, which Commissioner Diaz addressed yesterday, we have made modest progress. I appreciate Commissioner Diaz' impatience and his use of the bully pulpit, as Teddy Roosevelt called it, to urge faster action by the staff and greater investment in probabilistic risk assessment tools by the industry. But these are hard issues and I am afraid progress will continue to come in fits and starts.

I do want to call to your attention a document that does a good job of summarizing these and other achievements of NRC's staff in recent years. It is the United States country report to Nuclear Safety Convention review conference, which will take place in April in Vienna. It is available on our web page. The reports of several other countries are available on their web pages as well and the IAEA web page provides links to those reports.

I want to devote the remainder of my remarks to security issues. Much of what I will have to say is in reaction to Paul Leventhal's presentation yesterday afternoon in this room. Mr. Leventhal has made quite a media splash since September 11. He has been willing to share his expertise on law enforcement, intelligence and national security matters with any microphone or camera in his vicinity. Unfortunately, his expertise is quite thin and his biases are quite obvious. Anyone who disagrees with him is dismissed. Yesterday I was proud to see the Commission lumped in with the head of New York State's Office of Public Security, Mr. James Kallstrom, for Mr. Leventhal's criticism. Mr. Kallstrom, who spent most of his career in the FBI, was criticized for not sharing Mr. Leventhal's view that the Indian Point plants are "soft targets" and for making remarks to the effect that a terrorist attack on Indian Point would result in a lot of dead terrorists. I share Mr. Kallstrom's perspective and am happy to stand shoulder to shoulder by him. The Commission was criticized yesterday by Mr. Leventhal as a "captured agency: its financing, budgeting, decision-making and Commissioner nominations all controlled by industry."

This is a heck of a conspiracy which Mr. Leventhal perceives. Mel Gibson and Julia Roberts might want to sign up for "Conspiracy Theory II" if Mr. Leventhal wants to write a screenplay. This one is a doozy because it must involve the highest officials of both political parties in this country for the past half dozen years or more. All five current Commissioners were first nominated by President Clinton. The White House personnel process in the Clinton administration for appointments to scientific agencies involved the President's Science Advisor and the Vice President's office because of

Mr. Gore's deep interest in science and technology issues. Much of the Senate, which has confirmed all of us by voice vote, three of us twice, must be in on this conspiracy. Obviously the new administration must be as well. It is one heck of a conspiracy. It even extends to our intelligence, law enforcement and national security agencies who do not share Mr. Leventhal's overwrought and alarmist views and to every Governor and presumably the security advisors to those Governors who have failed to act on Mr. Leventhal's hysterical recommendations.

There is an alternative theory that would describe all this data. And that is that Mr. Leventhal is flat wrong. I subscribe to this theory. Let me explain why.

Mr. Leventhal loves to call our nuclear power plants "soft targets." No responsible person would make that claim. Long before September 11, the NRC had put in place at commercial nuclear power plants the most robust security regime for any commercial facilities in this country. And we alone in the critical infrastructure tested that security regime in force-on-force exercises. Now Mr. Leventhal loves to misuse the results of these Operational Safeguards Response Evaluations (OSREs). These were not pass-fail exams. As you all know, they were meant to identify weaknesses that needed to be corrected. The attacking force is credited with almost perfect knowledge of the plant's defenses and perfect knowledge of the plant's layout and the equipment they need to attack to try to bring about core damage. They are credited with very substantial capabilities to penetrate barriers in short periods of time. It is much like giving the St. Louis Rams Bill Belichick's defensive playbook before the Super Bowl, so that they know in advance how he plans to attack every St. Louis offensive formation and expecting the Patriots to still win the Super Bowl. In fact, under our rules Mr. Belichick would not even be able to make changes in his defensive sets once it became clear Kurt Warner had the Patriots' defensive playbook. But with all these advantages to the mock terrorists, in individual drills the attacking force reached its target sets only 15 percent of the time, in 9 of 59 drills, in 15 OSREs conducted between April 2000 and August 2001. And reaching target sets does not equate to core damage, for operators could well still recover the plant. And core damage does not equate to a radiological disaster, as Three Mile Island showed. As Chairman Meserve says, we make tough evaluations and then we insure that any weaknesses identified are promptly fixed. If our licensees were subjected to easier drills and we never found any weaknesses, Mr. Leventhal would undoubtedly be the first to criticize NRC. And in that case, his criticism would be warranted.

Nuclear power plants are hard targets by any conceivable definition. If Mr. Leventhal wants to find soft targets, modest attacks on which could result in mass casualties with little danger to a terrorist, they are unfortunately available in abundance to a terrorist planner. We as a nation will need to do what we can to mitigate those vulnerabilities in our critical infrastructure in the years ahead. We will never eliminate them. But Mr. Leventhal wants us to devote enormous additional resources to the already most hardened element of our critical infrastructure. And he would do it in nonsensical ways.

Since September 11, Mr. Leventhal has been calling for the deployment of "anti-aircraft guns" at commercial nuclear reactors. In mid-October I saw Mr. Leventhal on the margins of a Commission meeting and told him these guns don't exist in the United States Army. The last guns the Army or the Army National Guard deployed were the M-42 Dusters, which were still in the New Mexico National Guard when I first went to work for Senator Bingaman in the early 1980s, but have long since been retired. The Sergeant York Division Air Defense (DIVAD) gun was cancelled in the mid-1980s and the Army now uses an array of missile systems from shoulder-fired Stingers to long-range Patriots for air defense. I told him that he had essentially been demanding that a corporal with a Stinger and a telephone line to the White House be deployed at each of the 63 commercial nuclear power plant sites.

The corporal would presumably have orders to take down any commercial airliner whose trajectory the corporal didn't like, if in those few seconds he had to react he could get permission to fire. Pretty amazing stuff. This was of course all news to our military expert, Mr. Leventhal, although I have noticed that he now calls for "radar-directed anti-aircraft batteries" when he speaks. And Raytheon, in typical defense contractor fashion, has pointed out that they could adapt the Navy's terminal ship defense gun, the Phalanx, for air defense of nuclear facilities. If Mr. Leventhal had ever seen a Phalanx fired, he would have severe doubts about the wisdom of his expert military advice.

In a letter which Chairman Meserve sent Monday to Congressman Markey, we stated the following: "The NRC sees no need to deploy anti-aircraft weaponry at any commercial nuclear facilities in the United States. After consultation with the Department of Defense, the Office of Homeland Security and the Federal Aviation Administration, the Commission believes that there would be enormous command and control problems and a large potential for unintended consequences and collateral damage if such weaponry were deployed. The Commission believes that the proper way to deal with the potential hijacking of large commercial aircraft by suicidal terrorists is through the measures on airline security now well underway."

Mr. Leventhal also advocates the deployment (presumably round the clock) of "30 to 40 specially trained infantry troops" at each site. Now if I take 35 and multiply by 63 sites (he may have more in mind) and then multiply by 5 to insure 24-7 coverage, I get 11,000 troops. Throw in a command, support, logistics and training infrastructure and we get pretty close to an Army division. Let's call it Leventhal's division. Now before we deploy this force, we would have a few minor technical issues to work out, such as the Posse Comitatus statute and the complete and total opposition of the Pentagon (I don't think I'd need to ask). It's not going to happen, although I would certainly not discourage Mr. Leventhal from working it into his screenplay for "Conspiracy Theory II."

I could go on. But my bottom line is that I am a pretty conventional guy, and I would prefer my military advice come from the Pentagon, my law enforcement advice come from the FBI and the Justice Department, and my intelligence advice come from the intelligence community. I will continue to give the expert advice of Mr. Leventhal in all these areas the due consideration it deserves.

The Commission has much to do in the months ahead on security matters. It is the single issue which has most dominated our time since September 11. We have a firm foundation on which to build and we will continue to insure that these facilities are the best defended and most physically hardened facilities in our critical infrastructure. We will do so responsibly, in full consultation with the Office of Homeland Security, the Justice Department, the Pentagon, the intelligence community and others. We hope that the Congress will pass the legislation which we have been requesting for many years that we believe would bolster the current security regime. The NRC is not an independent actor on homeland security matters. We need to be part of the integrated national effort which the President is seeking to put in place with the help of the Congress. A year from now I believe that we can have much of our enhanced security regime in place. I look forward to discussing these issues with you then.

Thank you, and I'd be happy to answer any questions.