

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

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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.

The performance of licensees in past force-on-force exercises (Operational Security Readiness Evaluations - OSRE) is sometimes mischaracterized. OSREs were not pass-fail exams. The goal was to enhance security at the plants by identifying weaknesses that needed correction. Weaknesses identified in OSREs were not necessarily indications that the security program was flawed to an extent that a credible attack would lead to a radiological release or public harm. Identification of a weakness during an exercise led to immediate corrective or compensatory measures that ensured that security programs remained robust. To identify and correct weaknesses was, in large part, the reason for conducting these exercises.

Issue 5:

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.