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Subject: Nuclear Regulatory Commission Proposed Rule Making on Nuclear Power Station Security

ATTN: Rulemakings and Adjudications Staff

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USNRC

On November 7, 2005, the Nuclear Regulatory Commission (NRC) published in the Federal Register a Proposed Rulemaking (RIN 3150-AH60) to amend its rules regarding the Design Basis Threat (DBT) governing the required levels of security around U.S. nuclear reactors.

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The DBT is basically a document that identifies the potential size, modes and strength of attack by adversary forces intent upon radiological sabotage using a nuclear power station or other nuclear materials. The DBT is established in order to determine the required level of onsite defenses to reliably defend against such an attack until local law enforcement, National Guard or federal forces can be brought to bear. The DBT includes a classified description of "adversarial characteristics" designating the size of the attacking force and the number of potential insiders supporting the attack, the types of weapons and explosives they could employ as well as their modes of entry by land and water. Defense against air attack is neither considered nor required by NRC.

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The NRC summary of its Proposed Rulemaking states that it would amend the Commission's regulations to codify security requirements previously imposed by the Commission's April 29, 2003 DBT orders and redefine the level of security. The proposed rule would revise the DBT requirements for radiological sabotage applied to nuclear power reactors and nuclear fuel cycle facilities, as well as the theft or diversion of NRC-licensed Strategic Special Nuclear Material (SSNM). The NRC has also developed draft classified Regulatory Guides that provide guidance to its licensees concerning the DBT for radiological sabotage and theft and diversion. Additionally, a Petition for Rulemaking (PRM-73-12), filed by the Committee to Bridge the Gap and supported by NIRS and endorsed by hundreds of public comments and nine State Offices of Attorneys General was incorporated and in large part dismissed, trivialized and deferred as part of this NRC proposed rulemaking.

1. The NRC proposal to make no upgrades to existing security requirements for nuclear facilities is unacceptable in the face of the current terrorist threat and the potential catastrophic consequences of a successful attack on a nuclear site.

2. Nineteen attackers, who were willing to kill large numbers of people and be killed in the process, were involved in the September 11th attacks on the United States. It is unacceptable to require site protection around nuclear power stations to prepare for only a small fraction of the number of attackers already demonstrated.

3. As identified in the report authored by The National Commission on Terrorist Attacks on the United States, the original al-Qaeda plan was to hijack ten domestic commercial aircraft and direct two of them into U.S. nuclear power stations. By September 11, 2001 the attack plan was scaled back to four hijacked aircraft which were involved in successful suicidal attacks from the air on the World Trade Center, the Pentagon and an aborted unknown third destination, possibly a nuclear reactor. It is unacceptable as currently proposed by the

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NRC rule change to continue to exempt air attacks from the kinds of threats nuclear reactors must be capable of defending against.

4. The NRC proposed rulemaking defers specific actions requested by the Committee to Bridge the Gap for an overall upgrade of reactor security to a minimum level necessary to repel the equivalent of the September 11th attacks and in particular the physical construction of "Beamhenge" shields around each nuclear power station so that planes would crash into the shields, not the reactor facilities with catastrophic and far reaching destruction.

5. Under the guise of protecting "safeguards information," the NRC rulemaking itself is a violation of rulemaking laws, in that it provides nothing but vague generalities that make meaningful and genuine public comments impossible. Given the longstanding public concerns regarding NRC and nuclear industry security cost containment strategies, the proposed rule is the dangerous product of behind-closed-door meetings and dealmakings that after-the-fact offers the public an opportunity to comment without specifics or basis. This type of business as usual damages public confidence in NRC priorities and the current state of security levels existing at nuclear power stations.

6. Congress ordered NRC to include in any rulemaking consideration of September 11th-level threats, attacks by large groups, and attacks by air. NRC has defied Congress in this rulemaking by failing to consider any of these matters.

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