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The Honorable Ivan Selin
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Selin:

SUBJECT: AMENDMENTS TO 10 CFR PART 73 TO PROTECT AGAINST
MALEVOLENT USE OF VEHICLES AT NUCLEAR POWER PLANTS

During the 408th meeting of the Advisory Committee on Reactor Safeguards, April 7-8, 1994, we heard further presentations from the NRC staff on the rationale for the proposed rule change on the malevolent use of vehicles at nuclear power plants. Because of safeguards restrictions placed on us, the majority of the staff briefing was in closed session. In open session, we also heard brief statements by a private citizen and by a representative of the Nuclear Control Institute. In addition, a few of us recently visited an operating plant, and discussed the vehicle security situation. Finally, we have noted your March 28, 1994 response to our earlier letter dated December 10, 1993, and have seen the March 16, 1994 letter to you from Senators Baucus, et al., urging expeditious adoption of the new rule.

Your March 28 letter assured us that all relevant information will be considered by the Commission in coming to a final decision on the proposed rule, while emphasizing the difficulty, but not impossibility, of bringing quantitative considerations to bear on this subject.

The staff presentations were devoted to further analyses of certain conjectured scenarios, in support of the proposed rule, but we are constrained from discussing them in any detail here. We can say that (partly because of time limitations) the staff did not go beyond what was said at earlier meetings on the subject of vehicle bombs (a subject covered in our December 10, 1993, letter to you) but devoted its time to other uses of vehicles. Since the staff has made no changes of substance to the proposed rule since our earlier meetings, we are working with the same material as before, though somewhat enhanced by analysis of new scenarios.

The essence of risk-based regulation, to which the Commission is committed is that one should be thoughtful about implementing regulation for safety, and not necessarily do everything that seems at first blush reasonable. It is, for example, easy to think of many actions that would very likely enhance plant security, some conceivably more than would vehicle barriers. One might require all chain-link fences to be of heavier gauge, or require that they be higher (which would also enhance protection against other threats), or that they be tripled, or that the pay of guards be doubled (to attract even higher quality candidates), or that psychological screening of employees be enhanced (remember the insider threat), and so forth. The point is that choices have to

be made, and analyses should be made in order to come to those choices.

On balance, we have seen nothing new that alters either the majority or the minority views expressed in our December 10, 1993 letter. We said then that precipitous action might be justifiable if there were threat-related information to which we were not privy. We have been assured that there is not. Barring that, we continue to find little justification for a rush to judgment on this matter. If you wish us to continue to study this subject in even greater detail, we will be pleased to schedule another subcommittee meeting on an expedited basis.

An alternative available to the Commission might be to hold this proposed rule in abeyance, while the entire issue of plant vulnerability, including vehicle-borne explosives, the insider threat, and other possible intrusions, can be treated in an integrated way. They do interact, and it may be a mistake to treat them as independent.

Additional comments by ACRS Member Harold W. Lewis are presented below.

Sincerely,

J. Ernest Wilkins, Jr.
Chairman

Additional Comments by ACRS Member Harold W. Lewis

I agree with the Committee conclusions, and also believe the staff proposal is in clear violation of the Backfit Rule. The analysis I had always thought to be required by the rule would have left the proposed rule changes wanting, had it been performed.

References:

1. Letter dated December 10, 1993, from J. Ernest Wilkins, Jr., ACRS Chairman, to Ivan Selin, NRC Chairman, Subject: Proposed Amendments to 10 CFR Part 73 to Protect Against Malevolent Use of Vehicles at Nuclear Power Plants
2. Letter dated February 16, 1994, from Paul Leventhal, President Nuclear Control Institute, to J. Ernest Wilkins, Jr., ACRS Chairman, regarding the proposed truck-bomb rule
3. Letter dated March 16, 1994, from Max Baucus, Chairman, Senate Committee on Environment and Public Works, to Ivan Selin, NRC Chairman, regarding the adoption of a rule to require that nuclear power plants be protected against the use of vehicles for malevolent purposes
4. Letter dated March 28, 1994, from Ivan Selin, NRC Chairman, to J. Ernest Wilkins, Jr., ACRS Chairman, concerning the proposed rulemaking on protection against malevolent use of vehicles at nuclear power plants
5. Memorandum dated March 29, 1994, from Ashok Thadani, Associate Director for Inspection and Technical Assessment, NRR, to John

Larkins, ACRS Executive Director, Subject: ACRS Review of
Commission Paper on Amendments to 10 CFR Part 73 to Protect
Against Malevolent Use of Vehicles at Nuclear Power Plants