STATEMENT SUBMITTED

BY THE

UNITED STATES NUCLEAR REGULATORY COMMISSION

TO THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

CONCERNING

NUCLEAR POWER PLANT SECURITY

SUBMITTED BY

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CHAIRMAN

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Mr. Chairman and Members of the Committee, I am pleased to appear before you on behalf of the United States Nuclear Regulatory Commission (NRC) to discuss safeguards and security for NRC-licensed commercial nuclear power plants as well as certain legislation that has been introduced to strengthen security at these facilities. I will discuss the current status of actions that NRC has taken in response to the terrorist acts that occurred on September 11, and will outline some of the work that lies ahead. I believe that the NRC's response to the attacks has been appropriate and thoughtful, and that the NRC's current programs continue to provide a very high level of security. I also believe that certain specific legislative proposals, which I will discuss later, would contribute further to the enhancement of nuclear plant security and I would urge the Congress to enact this legislation before adjourning later this year.

The Commission recognizes the elevated concern of the American public about the potential for terrorist attacks on nuclear facilities and the use of radioactive materials for purposes of terrorism. I hope that my testimony today will provide a useful perspective for the Committee and will correct any erroneous perceptions on this important subject.

For decades before September 11, 2001, nuclear power plants were among the best defended and most hardened facilities of the Nation's critical infrastructure. In the aftermath of the attacks, security has been enhanced even further. On September 11, the NRC immediately advised the licensees of nuclear power plants and certain other licensees to go to the highest level of security and they promptly did so. Our licensees have remained at the highest level of security since that time.

We have maintained a steady flow of information with our licensees through over 30 updates to the original threat advisory. In February, we issued Orders to each operating power

reactor licensee specifying actions they must take to continue the high level of security to protect the plants, and thereby to protect public health and safety and common defense and security.

The NRC receives a substantial and steady flow of information from the intelligence community, law enforcement, and licensees that requires prompt evaluation to assess threats to facilities or activities regulated by the agency. The NRC routinely communicates with other federal agencies, such as the Office of Homeland Security, the Federal Bureau of Investigation, the Federal Emergency Management Agency, the Federal Aviation Administration and the Department of Defense. The protection of nuclear power plants and other nuclear facilities and activities has been a matter on which the NRC has received assistance from across the Government.

ORGANIZATION

Within a few weeks of the September 11 terrorist attacks, I, with the full support of the Commission, directed the staff to conduct a comprehensive re-evaluation of the current safeguards and security programs. The review encompasses analysis of the agency's threat assessment framework and design basis threat, evaluation of facility vulnerabilities, access authorization processes, and emergency preparedness and response, and review of NRC's infrastructure, programs, and communications.

In this connection, I specifically directed the staff to review the agency's organizational structure, staffing, and training in the security and safeguards area. In early April 2002, the Commission established a new Office of Nuclear Security and Incident Response in order to

consolidate NRC security, safeguards, and incident response capabilities and resources. The primary responsibilities of this new Office include safeguards and security programs and related policy development, threat assessment, and incident response operations.

ADVISORIES AND ORDERS

As noted previously, after the events of September 11, 2001, the NRC issued numerous safeguards and threat advisories to our major licensees in order to strengthen the licensees' capabilities and readiness to respond to a potential attack on their facilities. The advisories provide concise and relevant guidance relating to the need for a given category of licensee to take specific action to enhance security. Some of the specific measures implemented by the licensees in response to the advisories included increased patrols, augmented security forces and capabilities, additional security posts, installation of additional physical barriers, vehicle checks at greater stand-off distances, enhanced coordination with law enforcement and military authorities, and more restrictive site access controls.

The advisory process, which was in place prior to September 11, was developed in order to ensure rapid communication and response to potential security concerns. It proved to be a quick and effective means for communicating with licensees. Subsequent inspections and audits by the NRC confirmed that licensees appropriately responded to the actions specified in the advisories issued after the September 11 attacks. However, in light of the current threat environment, the Commission concluded that the additional actions to strengthen security at operating power reactors and other facilities should be embodied in an established regulatory framework. Therefore, on February 25, 2002, the NRC issued Orders that modified the

operating licenses for each of the power reactors to require compliance with specified interim compensatory measures.

A number of the Orders' requirements formalize measures specified in the advisories issued earlier, and have already been implemented. Other requirements provide additional security enhancements that have emerged from the on-going comprehensive safeguards and security program re-evaluation. Implementation of the requirements must be completed by August 31, 2002. A licensee would have to meet a very high threshold to receive an extension of that date, and no such extension has been granted thus far.[1]

An Order was also issued on March 25, 2002, to the licensee of the one existing uranium conversion facility. And, on May 24, the NRC issued Orders for the decommissioning reactor facilities. The NRC is also developing Orders or considering other actions that will require implementation of interim compensatory measures for other categories of licensees.

The NRC will continue to evaluate whether further changes are needed as part of our ongoing comprehensive safeguards and security program re-evaluation.

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[1]Licensees were also required to submit a schedule of implementation of the Orders' requirements within 20 days of the February 25 Order. Requests have been received for extension of that deadline, and are considered on a case-by-case basis. Granting an extension to the schedule submission does not change the requirement for implementation of the February 25 Order by August 31. Nor does granting an extension to the schedule submission deadline mean that a licensee cannot meet the August 31 implementation deadline. Any extension dates granted for schedule submissions have been set so as to leave sufficient time to meet the implementation date of August 31.

ISSUES

I would now like to discuss briefly a number of specific issues that may be of interest to the Committee. These are: (1) the design basis threat used to assess security readiness at nuclear facilities, (2) the threat of airborne attack, (3) the adequacy of security exercises at nuclear facilities, (4) personnel access authorization and related security background checks, and (5) protection of spent nuclear fuel. This will be followed by a discussion of proposed legislation.

(1) Design Basis Threat

Security programs at certain NRC-licensed facilities, including nuclear power reactors, are designed to protect against a specified level of threat called the Design Basis Threat (DBT). After September 11, the NRC initiated a re-examination of the basic threat assumptions underlying the current civilian nuclear facility security programs, including its two established DBTs. The DBTs characterize the adversary force against which certain NRC licensees (power reactors, Category I fuel cycle facilities, and transportation of Category I special nuclear material) must design their physical protection systems and response strategies. The NRC continually assesses the threat environment and regularly reviews the adequacy of the DBTs in close coordination with the national intelligence and law enforcement community. Longer term revisions to the DBTs are now needed to reflect changes in the threat environment. The Commission is currently developing specific guidance to the NRC staff for revising the DBTs. Any final decision on the DBTs will be considered with appropriate stakeholders and federal and state agencies. These revisions will lead to changes in the security requirements for licensed

facilities and activities. The February 25 Order referred to above includes enhancements to respond to the current threat environment.

(2) Airborne Attack

Following the use of commercial jetliners as missiles on September 11, many questions have been raised regarding the potential effects on public health and safety if an aircraft attack were made on a nuclear facility. As we have stated many times, nuclear facilities are among the most hardened industrial facilities. But no existing nuclear facilities were specifically designed to withstand a deliberate, high-velocity, direct impact of a large commercial airliner.

The capability of a plant to cope successfully with an aircraft impact will, in the first instance, depend upon the plant's specific design features. It should be recognized that nuclear power plants are massive structures with thick exterior walls and interior barriers of reinforced concrete. The plants are designed to withstand tornadoes, hurricanes, fires, floods, and earthquakes. As a result, the structures inherently afford a measure of protection against deliberate aircraft impacts. In addition, the defense-in-depth philosophy used in nuclear facility design means that plants have redundant and separated systems in order to ensure safety. That is, active components, such as pumps, have backups as part of the basic design philosophy. This provides a capability to respond to a variety of events, including aircraft attack.

It is also important to note that nuclear power plants have a robust emergency preparedness program that includes biennial, evaluated exercises. In the event of a serious problem including a terrorist attack around a nuclear power plant, the plans and procedures that

have been routinely exercised would be activated. This provides a capability to respond to events of all types, including aircraft attack.

In our recent Orders to nuclear power plant licensees, the Commission directed licensees to develop specific plans to respond to an event that results in damage to large areas of their plants from explosions or fire. In addition, mitigative measures required by the Orders include assuring the presence of Emergency Plan staffing and associated resources needed to respond to such an event. The NRC is also continuing a major engineering evaluation relating to the vulnerabilities and potential effects of a large commercial aircraft striking a nuclear facility. This effort includes consideration of additional mitigative and protective measures.

Suggestions have been made that anti-aircraft defenses should be installed at U.S. nuclear power plant sites. Such a step would present very difficult command and control issues, and the use of such weaponry could lead to significant collateral damage to plant workers and members of the public. Although the decision whether to deploy anti-aircraft capability must rest with the military, the Commission believes that the best approach to dealing with threats from aircraft is through strengthening airport and airline security measures.

(3) Security Exercises

The NRC has conducted force-on-force security exercises, known as Operational Safeguards Response Evaluations (OSREs), at nuclear reactor sites since 1991, and carried out similar tests before that time. These are tough, simulated commando-style raids, designed to identify shortcomings in security personnel performance or strategy. Identification of a weakness during an exercise leads to immediate corrective or compensatory measures. We

are not aware of any comparable performance testing of security measures for any other commercial facilities in the United States.

Following the September 11 attacks, force-on-force exercises were temporarily suspended because, in the heightened threat environment, the conduct of exercises would be a significant distraction to security forces. In addition, the NRC had diverted its limited security inspection resources to staff response centers and to monitor and evaluate the licensees' heightened security posture. We recognize, however, that force-on-force drills are an important means to assess security readiness. The NRC staff is currently preparing options for Commission consideration on how to reinstate security exercises. For example, in the future we may involve local and State law enforcement in the exercises and we may look at beyond-design basis threats and the ability of operator actions to mitigate any hypothetical damage caused by a beyond-design basis attack.

(4) Personnel Access Authorization

The NRC's comprehensive security program re-evaluation includes an assessment of the personnel access authorization requirements and programs at nuclear power facilities. This effort is intended, in part, to address potential insider threats.

Current NRC regulations, which are the toughest in any non-defense industry in this country and which were in place prior to September 11, generally require an individual seeking unescorted access to a nuclear power plant to undergo a background investigation to verify the individual's true identity and require the licensee to develop information about the person's background. The investigation includes review of the individual's employment history,

education history, credit history, military service, and character and reputation, as well as a psychological assessment to evaluate trustworthiness and reliability. The background investigation also includes a criminal history check conducted by the FBI.[2] The requirements related to unescorted access are also supplemented by behavioral monitoring once on the job, and random drug and alcohol testing as part of a comprehensive fitness for duty program. Further, those who enter the protected area pass through portal monitors that detect weapons or explosives.

We took additional steps after September 11. The NRC, in coordination with the FBI, checked NRC employees and licensee personnel against the FBI watch list established as part of the investigation of the events of September 11. Since that time, we have been working with the Office of Homeland Security to facilitate information sharing among federal agencies to enhance access to relevant information and improve the access authorization programs.

The NRC is also coordinating with the Immigration and Naturalization Service (INS) in the effort to validate the employment eligibility of employees at nuclear power plants. We seek to ensure that only persons authorized to work in the U.S. are employed in nuclear power plants. However, there are limitations on the NRC's and its licensees' ability to obtain and use information available in INS and other federal data bases for this purpose. For example, current law (8 U.S.C. § 1342b) prohibits discrimination on the basis of alienage in the context of employment. This section has been interpreted to preclude asking non-citizens for more proof

[2] Current NRC regulations allow an individual to obtain temporary unescorted access during the conduct of the criminal history check, but many of the other requirements for unescorted access must be satisfied in such a situation. The Orders issued to commercial nuclear power licensees in February required additional restrictions on the use of temporary unescorted access authorizations.

of identity than citizens. In addition, in the process of dealing with access authorization, the Constitutional rights of both citizens and non-citizens must be protected.

(5) Spent Nuclear Fuel

Most of the radioactive material at power reactors is concentrated in the spent nuclear fuel that has been removed from the reactors. Spent nuclear fuel is stored at reactor sites in spent fuel pools or in dry cask storage facilities. Spent fuel pools use water to cool the spent fuel and shield personnel from radiation. The pools are robust structures constructed of very thick concrete walls with stainless steel liners, and are designed to withstand earthquakes. Spent fuel casks are also robust, typically constructed of a combination of concrete and steel that allow for air cooling of the spent fuel.

Spent fuel stored at NRC-licensed facilities poses a lesser security challenge than an operating reactor because the risk to the public health and safety is diminished. NRC's comprehensive safeguards and security program re-evaluation includes the consideration of potential consequences of terrorist attacks using various explosives or other techniques on spent fuel pools and spent nuclear fuel dry casks at storage sites. The program also addresses the transportation of spent fuel and other significant quantities of radioactive material.

The Orders issued by the Commision on February 25, 2002, to operating reactors, and on May 2, 2002, to decommissioning reactors and the General Electric spent fuel storage facility, enhance the security measures for spent fuel stored in spent fuel pools. The specific security measures are understandably sensitive, but generally include requirements for increased patrols, augmented security forces and capabilities, additional security posts, vehicle

stand-off distances, and enhanced coordination with law enforcement and military authorities. We will shortly issue a similar Order to independent spent fuel storage facilities using dry cask storage.

I would also like to address security during transportation. Our existing regulations currently contain significant safety and security requirements for the transport of radioactive material. After the September 11, 2001 event, we also issued advisories to increase security in transportation of specific types of radioactive material, including spent fuel shipments and shipments referred to as Highway Route Controlled Quantities of radioactive material. In order to codify the advisories, the Commission is currently in the process of issuing Orders to licensees shipping specific quantities of radioactive material and will be considering expedited rulemaking in this area as well. We will also review transportation requirements as part of our comprehensive review of the safeguards and security programs that I previously mentioned.

LEGISLATIVE NEEDS

Since the events of September 11, 2001, many members of Congress have asked the NRC how they can help to improve the security at nuclear power plants and other facilities. In response, the Commission has requested that Congress enact several specific legislative proposals that would amend three sections of the Atomic Energy Act. These proposals were contained in an omnibus bill the Commission transmitted to the Congress in June of last year and in letters I sent to Congress this fiscal year. The NRC has been seeking enactment of most of these amendments for almost fifteen years. Most of these provisions are contained in S. 1586, which was introduced by Senators Inhofe and Smith at the end of last October. I

should note that all of our proposals have been coordinated with the Executive Branch and enjoy the strong support of the Administration.

One of the proposals would provide federal authorization for guards to carry and use firearms at NRC-regulated facilities designated by the Commission, and to protect property of significance to the common defense and security located at, or being transported to or from, such facilities. The proposal would enhance national security by eliminating several weaknesses under the current safeguards and security regime. In particular, this amendment could provide some protection for licensee guards from State criminal prosecution for actions taken during the performance of their official duties. Ameliorating guards' concerns regarding State prosecution should make their actions more dependable in situations calling for use of their weapons.

The Atomic Energy Act permits the Department of Energy (DOE) and its contractors and subcontractors engaged in the protection of property located at nuclear facilities, or being transported to or from such facilities, to carry arms, make arrests, and use force as the Department deems necessary in the interests of the common defense and security. As a result, DOE guards may be shielded from State criminal prosecution for actions taken during the performance of their official duties. However, this does not apply to guards at NRC-licensed facilities. State laws govern the use of weapons by guards at NRC-licensed facilities, and some States laws do not permit guards to use weapons, except to protect against an immediate threat to their own lives or the lives of others. In such States, it may not be possible to shield the guards at NRC-licensed facilities from State criminal prosecution for actions taken during the performance of official duties.

This difference between the protections offered to DOE guards and guards at NRC-licensed facilities exists even where both are protecting special nuclear material. Several years ago, Congress extended the protections applicable to DOE guards to guards at the gaseous diffusion facilities operated by the United States Enrichment Corporation. It would seem logical to extend equivalent protections to guards at NRC-licensed or certified facilities designated by the Commission.

In addition, some State laws make it difficult for licensees or their security contractors to use more effective weaponry. To alleviate this problem, the Commission has developed an addition to the proposed amendment establishing federal authorization for guards to carry and use firearms at NRC-regulated facilities. This additional provision -- not included in S. 1586 -- would authorize the guards to carry and use, where necessary to the discharge of their official duties, such weapons as the Commission may require, pursuant to guidelines issued with the concurrence of the Attorney General. A copy of the original proposal with additional language to address this concern is attached to my written statement.

Another provision would make it a federal crime to bring unauthorized weapons and explosives into NRC-licensed facilities. There have been a number of reported incidents where persons without authorization have brought firearms into protected areas of NRC-regulated sites. Although the NRC may impose sanctions against the licensee for violations of its security regulations, there is no federal law permitting the imposition of criminal sanctions against the person responsible for bringing the weapon or other dangerous instrument to the site. This amendment would assist NRC licensees in their efforts to safeguard licensed nuclear facilities and materials that must be protected against radiological sabotage or nuclear theft. It would permit the NRC to promulgate regulations prohibiting the unauthorized introduction of weapons

into NRC-regulated sites. Violation of the regulations would constitute a Federal crime, which could result in a fine or imprisonment, or both.

Our final proposal would make federal prohibitions on sabotage applicable to the operation and construction of such NRC-licensed or certified facilities as nuclear reactors and enrichment and fuel fabrication facilities. This amendment would provide criminal sanctions for sabotage or attempted sabotage of such a facility during its operation or construction where the action could affect public health and safety during the operation of the facility.

We believe that the modest legislative changes that I have described will contribute to enhancing the security of nuclear facilities and material. S. 1586 contains provisions that are similar to these proposals, except that it does not contain the more recently developed provision I have described authorizing guards to carry and use, where necessary to the discharge of their official duties, such weapons as the Commission may require, pursuant to guidelines issued with the concurrence of the Attorney General.

S. 1746

The Commission opposes S. 1746, which would federalize the security forces at commercial nuclear facilities. There are several fundamental difficulties with this legislation.

First, S. 1746 separates the strategy for the security of nuclear facilities from that of all other types of sensitive facilities (e.g., chemical plants, refineries, and dams). We believe society's defensive resources should be allocated in accordance with relative risk, and that the separation of nuclear facilities from all other types of sensitive facilities will fragment the overall

consideration of risk inappropriately. Since resources are not infinite, disproportionate protection at one kind of facility may increase the risks at other kinds of facilities.

Second, the requirement that the NRC establish a security force for sensitive nuclear facilities addresses a non-existent problem. S. 1746 would require the hiring of thousands of new federal guards to displace the private security forces now used by licensees. The private guard forces that exist today at such facilities are qualified, trained, and tightly regulated. There is no need, unlike the situation of airports, to federalize security at such plants. There have been no failures in nuclear plant security that would warrant the creation of a new federal security force for NRC-licensed facilities.

Third, S. 1746 would bring about a fundamental shift in the responsibility and mission of the NRC. The demands of the legislation would refocus the NRC principally as an agency to ensure nuclear security, which could have the unintended consequence of detracting from the Commission's mission to protect the public health and safety from radiological hazards.

Fourth, NRC's role as an independent regulator would be compromised by the bill's requirement that the NRC design security plans for all sensitive nuclear facilities, implement the plans with NRC employees, and then conduct safeguards evaluations of the efficacy of the implementation of those plans. In the security area, the legislation would force the NRC to regulate its own activities.

Fifth, the bill would create command and control difficulties because it would establish two classes of employees at commercial nuclear sites, both of which would be responsible for safety in the event of a terrorist attack -- licensee personnel responsible to the licensee for safe

operations and federal employees responsible to the NRC for security. In an emergency situation, these separate lines of authority could, in fact, lead to a diminution of the capacity to ensure safety.

Sixth, making guards at nuclear facilities employees of the Commission (as S. 1746 would do) would require significant additional resources that could be used more effectively in other efforts to enhance the security of the nation's infrastructure. Moreover, 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 than 5,000 new federal workers, which is nearly twice the number of staff now employed by the agency.

These fundamental difficulties in S. 1746 argue against its adoption, but there are also other concerns raised by the bill, including the following:

- S. 1746 does not alleviate concerns, arising from State law, similar to those described earlier in my discussion of differences between the situation of guards at DOE facilities and guards at NRC-licensed facilities.

- S. 1746 would create a "Nuclear Security Fund," to be used to pay costs of salaries, training, and other expenses of the nuclear security force established by the bill as well as costs of developing and implementing security plans. To ensure that adequate amounts are available for these purposes, the Commission would be directed to assess licensees a fee "not to exceed 1 mill per kilowatt-hour of electricity generated" by "sensitive nuclear facilities". This does not take into account that a significant portion of those facilities (for example, decommissioned nuclear power plants) do not produce electricity.

- S. 1746 would create a new NRC Office (the Operations Safeguards and Response Unit) within the NRC. This aspect of the legislation has already been accomplished and thus the statutory provision is unnecessary. In early April of this year the Commission established a centralized security organization within the NRC -- the Office of Nuclear Security and Incident Response. This office combines security responsibilities previously exercised by the Office of Nuclear Material Safety and Safeguards and the Office of Nuclear Reactor Regulation.

- S. 1746 provides a new focus on Federal-State relationships. For example, until now States have borne the primary responsibility for emergency response. However, the bill would require the Commission to certify that stockpiles of potassium iodide (KI) tablets have been established within a 50-mile radius of sensitive nuclear facilities, and to develop plans for prompt distribution of the stockpiles in the event of a release of radionuclides. Thus, S. 1746 would require intrusion by the NRC into the States' responsibilities in this area. In addition, Congress recently addressed the subject of KI distribution in the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, which now awaits Presidential signature. No further legislation regarding KI is warranted.

In light of the above considerations, the Commission believes that the current system, with coordination of security and safety through organizations subject to NRC regulatory scrutiny, is clearly preferable to that proposed by S. 1746.

CONCLUSION

In closing, the events of September 11 have had, and continue to have, a significant effect on both the NRC and our licensees. Nonetheless, our licensees' primary responsibility of

ensuring safe operation of their facilities, and the NRC's fundamental mission of protecting public health and safety, have not changed. Licensees' physical protection programs in place prior to September 11 continue to be effective in protecting the public, and have been appropriately enhanced since September 11. Moreover, the NRC continues to work with a variety of agencies, including the Office of Homeland Security, in an effort to develop an integrated national strategy to deal with critical infrastructure. We continue to believe that nuclear security would be enhanced by enactment of the legislation proposed by the NRC. We look forward to working with the Congress both on the enactment of the NRC legislative proposals I have discussed and on continuing to ensure adequate protection of the public health and safety and the common defense and security.

I appreciate being here today to discuss the NRC's programs and am prepared to answer your questions.

ATTACHMENT

SECTION . CARRYING OF FIREARMS BY LICENSEE EMPLOYEES

Section 161 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(k)) is amended to read as follows:

"Sec. 161. GENERAL PROVISIONS.

“In the performance of its functions the Commission is authorized to --

* * * *

"k. (1) authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize--

"(A) such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security; and

"(B) such of those employees of persons licensed or certified by the Commission (including employees of contractors of licensees or certificate holders) engaged in the protection of (i) facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission, or (ii) property of significance to the common defense and security located at facilities owned or operated by a Commission licensee or certificate holder or being transported to or from such facilities;

to carry firearms while in the discharge of their official duties. A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United

States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor or of a Commission licensee or certificate holder (or a contractor of a licensee or certificate holder) authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of (A) laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission or a licensee or certificate holder of the Commission, or (B) laws applicable to facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission pursuant to this subsection, and property of significance to the common defense and security that is in the custody of a licensee or certificate holder or a contractor of a licensee or certificate holder of the Commission, or (C) any provision of this chapter that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws; The Secretary and the Commission, with the approval of the Attorney General, shall issue guidelines to implement this subsection;

"(2) authorize employees of persons licensed or certified by the Nuclear Regulatory Commission (including employees of contractors of licensees or certificate holders) who are trained and qualified as guards and whose duty is the protection of facilities designated under paragraph (1)(B)(i) or property described under paragraph (1)(B)(ii) to carry and use, where necessary to the discharge of their official duties, such weapons, devices, or ammunition as the Commission may require. Such employees shall have

the power to carry and use such weapons while in the discharge of their official duties, regardless whether such employees have been designated as Federal, State, or local law enforcement officers. Such employees shall have such law enforcement powers as are provided to them under this section and section 161 i. of this Act. The Nuclear Regulatory Commission shall issue guidelines, with the approval of the Attorney General, to implement this paragraph. The authority conferred by this paragraph with respect to employees of persons licensed or certified by the Nuclear Regulatory Commission (including employees of contractors of licensees or certificate holders) who are trained and qualified as guards and whose duty is the protection of facilities designated under paragraph (1)(B)(i) or property described under paragraph (1)(B)(ii) shall not be implemented until such guidelines have become effective;"