

DOCKET NUMBER

PETITION RULE PRM 73-12
(69FR 64690)

312



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY
ATTORNEY GENERAL

(617) 727-2200
www.ago.state.ma.us

February 17, 2005

BY TELEPHONE FACSIMILE TRANSMISSION
Fax: 301-415-1101

DOCKETED
USNRC

February 17, 2005 (2:11pm)

Secretary, U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

ATTN: Rulemakings and Adjudications Staff

RE: Docket No. PRM - 73-12

Dear Sir/Madam:

As he previously stated in his December 7, 2004 to Chairman Diaz (enclosed), Attorney General Reilly has serious concerns about the safety and security of the nation's nuclear power facilities. Consistent with these concerns is the notion that any Design Basis Threat for nuclear power plant security should reflect present realities, including those that came to light following the events of September 11, 2001.

Although we do not necessarily support all of the positions taken by the parties to this proceeding, we believe that security issues relating to nuclear facilities should be reviewed on a continuing basis and security plans should be updated to reflect the reality of current terrorist threats. We urge you to review current security standards. It is evident that steps must be taken to minimize the potential threats and to ensure that all necessary and appropriate steps are being taken to protect the nation's nuclear power plant facilities.

Sincerely,

Nora J. Chlorover
Assistant Attorney General

enclosure



THE COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE

BOSTON, MASSACHUSETTS 02108-1698

THOMAS F. REILLY
ATTORNEY GENERAL

December 7, 2004

(617) 727-2200
www.ago.state.ma.usNils J. Diaz, Ph. D., Chairman
U.S. Nuclear Regulatory Commission
Mail Stop 17 D1
Washington, D.C. 20555Re: Safety and Security of Commercial Nuclear Spent Fuel Storage

Dear Chairman Diaz,

My office continues to work with others on the local anti-terrorism task force to protect our state and communities from terrorist attacks. I am writing to express my serious concern about the issue of nuclear power plant safety and security.

The consequences of a catastrophic attack against a nuclear power plant are simply incalculable, and we cannot ignore the risk of such an attack. President Bush underscored the threat to nuclear power plants in his 2003 State of the Union Address, in which he pointed out that diagrams of nuclear power plants were found in Al Qaeda enclaves in Afghanistan. Subsequently, the Department of Homeland Security and others have provided classified and non-classified warnings indicating that the potential threat to nuclear plants is very real. In April 2003, I joined with twenty-six other Attorneys General in sending a letter to Congress urging passage of legislation to protect states and communities from terrorist attacks against civilian nuclear plants and other sensitive nuclear facilities. Congressional hearings and official reports further underscore concerns about the security and vulnerability of nuclear power plants.

In 1959, Congress granted to the NRC primary responsibility for overseeing nuclear power plant safety. Yet, according to a September 14, 2004 report of the United States Government Accountability Office, the NRC cannot presently answer the following fundamental question: "Have the Nation's nuclear power plants taken appropriate steps to protect against a terrorist attack?" This question cannot be answered because the agency has not visited facilities to obtain site-specific information and to assess their security plans. Nor, according to the report, has the NRC acted to "establish a worthy adversary team for force-on-force exercises, establish priorities for the facilities to be tested, carefully analyze the test results for shortcomings in facility security, and be willing to require additional security improvements as warranted." As the only agency with direct authority over the plants' security activities, the NRC must do more to assure itself and the Nation that each plant has sufficiently addressed the risk of terrorism.

Nils J. Diaz, Ph. D., Chairman
Page 2

Several citizens groups and technical experts believe that spent fuel pools are among the most vulnerable components of nuclear power plants. Particular concern has been raised about the design of General Electric Mark I and Mark II Boiling Water Reactors, where the spent fuel storage pools tend to be located several stories above ground, outside the robust containment structure surrounding the reactor. Two nuclear power plants in and on the border of Massachusetts have Mark I reactors, as do several plants in nearby states. It is my understanding that the National Academy of Sciences has prepared a report on the safety of spent fuel pools. Indeed, the House Appropriations Committee anticipates that the report will call upon NRC to take immediate steps to improve spent fuel pool safety and security, conduct further analyses of pool vulnerabilities, and take additional plant-specific action to address these vulnerabilities." On August 10, 2004, the Nuclear Security Coalition, a consortium of non-profit organizations concerned about nuclear power plant safety and national security, filed a Petition with the NRC seeking emergency actions to address structural vulnerabilities of boiling water reactors with mark I and Mark II containment and their irradiated fuel pools. We ask that you take a close look at the concerns raised by the NAS, the Appropriations Committee, and the Nuclear Security Coalition.

Finally, I urge you to consider and address the risk of terrorism against nuclear power facilities as the NRC updates the general environmental impact statement for license renewal of nuclear power plants. Certainly, sensitive details of particular facilities should be kept confidential, and the NRC has procedures for doing so. However, decision-making as to environmental and other impacts should be conducted in an open process to allow for informed, democratic decision-making. The NRC can address methods to reduce risks from terrorist attacks in the open process mandated by NEPA, while specific sensitive details of particular facilities remain confidential.

Large amounts of resources are being dedicated on the federal, state and local levels to prevent harm from future attacks. It is evident that steps must be taken to minimize the potential threat and expand emergency response capability should such an attack occur. These efforts could be hindered if the NRC does not ensure that all necessary and appropriate steps are being taken to protect the Nation's nuclear power facilities from the threat of terrorism.

Thank you.

Sincerely,


Thomas F. Reilly



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY
ATTORNEY GENERAL

TELECOPIER COVER SHEET

(617) 727-2200
www.ago.state.ma.us

TO: Secretary, U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Fax: 301-415-1101

FROM: Nora Chorover
Assistant Attorney General, Environmental Protection Division
PHONE: (617) 727-2200, Ext. 2433
FAX #: (617) 727-9665

4 PAGES (INCLUDING THIS COVER SHEET)

DATE: February 17, 2005

NOTES:

- Please call to confirm receipt
- Please hand deliver to addressee immediately

*****CONFIDENTIALITY*****

The documents accompanying this telecopier transmission contain information which may be confidential and/or privileged. The information is intended solely for the use of the addressee named above. If you are not the intended recipient, you are advised that any disclosure, copying, distribution or use of the information transmitted is prohibited. If you have received this telecopier transmission in error, please notify the sender by telephone immediately and return the original transmission to the sender by first class mail via the U.S. Postal Service. Thank you for your compliance.

IF THERE ARE PROBLEMS RECEIVING THIS TRANSMISSION, PLEASE
CONTACT THE SENDER AS SOON AS POSSIBLE

