

EDO Principal Correspondence Control

FROM: DUE: 12/29/04

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FINAL REPLY:

Thomas F. Reilly
The Commonwealth of Massachusetts

TO:

Chairman Diaz

FOR SIGNATURE OF :

** PRI **

.CRC NO: 04-0763

Chairman Diaz

DESC:

Safety and Security of Commercial Nuclear Spent
Fuel Storage

ROUTING:

Reyes
Virgilio
Kane
Merschhoff
Norry
Dean
Burns/Cyr
Dyer, NRR
Lohaus, STP
Strosnider, NMSS

DATE: 12/17/04

ASSIGNED TO:

CONTACT:

NSIR

Zimmerman

SPECIAL INSTRUCTIONS OR REMARKS:



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.us

Nils J. Diaz, Ph. D., Chairman
U.S. Nuclear Regulatory Commission
Mail Stop 17 D1
Washington, D.C. 20555

Re: 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

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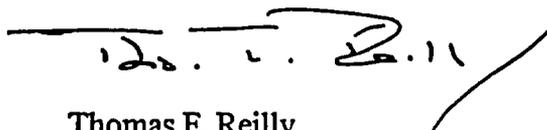
Several citizens groups and technical experts believe that spent fuel pools are among the most vulnerable components of nuclear power plants. Particular concern has been raised about the design of General Electric Mark I and Mark II Boiling Water Reactors, where the spent fuel storage pools tend to be 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,

A handwritten signature in black ink, appearing to read "T. F. Reilly", with a long horizontal stroke extending to the right.

Thomas F. Reilly