

FOIA/PA NO: 2016-0034

RECORDS BEING RELEASED IN THEIR ENTIRETY

December 30, 2007

The Honorable Andrew M. Cuomo
Attorney General
State of New York
Albany, New York 12224

Dear Mr. Attorney General Cuomo:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated November 15, 2007 expressing your serious concerns about the NRC's license renewal regulations being limited in scope to the detrimental effects of aging. You encourage the NRC to expand the scope of its license renewal proceedings to encompass siting and safety criteria such as emergency planning, plant physical security, population density, and geographic and seismic activity. You express the view that the NRC cannot adequately protect the public health and safety from terrorist attacks and natural forces such as earthquakes unless these matters are addressed at license renewal.

While the Commission understands and shares the public's concern over nuclear safety and security in the post-September 11 environment, the Commission does not agree that public safety and security will be at risk unless the agency expands its license renewal reviews to include the matters you cite in your letter. On the contrary, to assure continuing adequate protection of the public, the NRC necessarily addresses problems such as emergency planning and plant physical security as they arise, within the context of an ongoing regulatory process that evolves as appropriate in response to changing circumstances (e.g., increased security after the September 11, 2001 terrorist attacks). The NRC's ongoing regulation of such matters, including inspection and enforcement, upgrades and backfits, orders requiring action by licensees, and regulatory reviews to assess the need for new or modified regulations, is complex and comprehensive and occurs throughout the life of the license.

Over the past two decades, including quite recently, the NRC has devoted considerable attention to the scope of license renewal. The current license renewal regulations were the product of two full-scale public rulemakings, (1) *Final Rule: Nuclear Power Plant License Renewal*, 56 Federal Register (FR) 64943 (December 13, 1991); and (2) *Nuclear Power Plant License Renewal; Revisions*, 60 FR 22461 (May 8, 1995). These rules rested in part on an extensive NRC study on the adequacy of the NRC's ongoing regulatory process. NUREG-1412, *Foundation for the Adequacy of the Licensing Basis* (1991). More recently, in denying rulemaking petitions requesting that the NRC expand the scope of license renewal to cover essentially the same siting and operational issues raised in your letter, the NRC explained that "duplicating the Commission's responsibilities in both oversight of current plant operations as well as license renewal" would be unnecessary and undesirable, posing a strain on Commission resources. 71 FR 74848, 74851 (December 13, 2006).

The NRC's denial of the recent petitions for rulemakings is currently the subject of litigation before the United States Court of Appeals for the Second Circuit. *Spano. V. NRC*, 2nd Cir. No. 07-0324-ag(L). The NRC's brief is available at the NRC's public website, using ADAMS accession number ML073370675.

Thank you for bringing your concerns to our attention.

Sincerely,

/RA/

Dale E. Klein

Identical letter sent to:

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The Honorable Richard Blumenthal
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