

**U.S. Nuclear Regulatory Commission  
Will Not Require Entrance Guards  
at the Nation's Nuclear Power Plants**

This report details how the Nuclear Regulatory Commission bungled an effort to create a new rule to require entrance guards.

**Three Mile Island Alert  
Harrisburg PA  
October 31, 2008**

Three Mile Island Alert<sup>1</sup> is highly critical of the failures of the Nuclear Regulatory Commission (NRC) for its continuous mishandling of our petition for rulemaking (PRM-73-11).<sup>2</sup> This proposed rule would require nuclear plants to post an armed guard at each entrance. The NRC demonstrated a pervasive lack of care for its own guidelines, displayed a shameless disregard for public stakeholders, and brazenly misled Congressional leaders on this national security matter.

On more than 40 occasions (a list of breakdowns begins on [page #4](#)), the NRC failed to adhere to its principles of openness and clarity and to its procedural guidelines while handling our rulemaking petition. During the seven years of waiting, the NRC changed the rules of the process, created needless and excessive delays, kept us in the dark, and showed virtually no accountability when challenged.

Because of the importance of the security issue being decided by this proposed rule, we hope that this case will highlight to the nation and to our leaders just how “broken” the NRC is during its day-to-day business transactions with the public.<sup>3</sup>

<p>“Although the NRC continues to claim that public participation is a valuable part of the regulatory process and invites public participation to promote safety and trust, Three Mile Island Alert has found this claim to be completely false and has little faith in the NRC or for its rulemaking process.”</p> <p style="text-align: right;">Scott D. Portzline Security Consultant Three Mile Island Alert</p>	<p style="text-align: center;"><u>NRC’s contentions proven to be <b>FALSE</b></u></p> <ul style="list-style-type: none"> <li>• Maintains openness in communication and decision making</li> <li>• Facilitates public understanding</li> <li>• Provides an opportunity for affected people to participate in the process</li> <li>• Increases credibility</li> <li>• Enhances public acceptance and cooperation</li> <li>• Input from external stakeholders is very valuable.</li> <li>• diverse views = better product</li> <li>• The NRC rulemaking process is a mature process and we welcome suggestions on how to improve it</li> </ul> <p style="text-align: right;">NRC Meeting – NRC presentation slides “Public Participation in NRC’s Rulemaking Process” Jun 12, 2008</p>
<p>“Public confidence in the NRC is eroded each time we fail to resolve issues in a timely, clear, and transparent manner.”</p> <p style="text-align: right;">NRC Commissioner Gregory Jaczko Regulatory Information Conference March 8, 2006</p>	

NRC REPORT CARD  
Petition for Rulemaking  
by TMI Alert

	Satisfactory	Unacceptable	Comment
<b>Accountability</b>		✓	<b>pffffft</b>
<b>Clarity</b>		✓	<b>Clearly did not like this proposed rule</b>
<b>Communications</b>		✓	<b>A black hole</b>
<b>Fairness</b>		✓	<b>Scalawags</b>
<b>Functionality</b>		✓	<b>Meltdown</b>
<b>Timeliness</b>		✓	<b>ZZZZZZZZ.....</b>
<b>Trustworthiness</b>		✓	<b>Coin toss</b>
<b>Transparency</b>		✓	<b>More like invisible</b>
<b>Able to work well with others</b>		✓	<b>Won't follow its own rules</b>
<b>Respectful</b>		✓	<b>Needs work</b>
<b>Handles criticism well</b>		✓	<b>Nothing phases the NRC!</b>

“I hope you know that I consider strong, focused, clear communications essential to the discharge of the responsibilities of a nuclear regulator, and that I have talked the talk and walked the walk. Furthermore, I have worked to ensure the effective use of communications as a management tool for the NRC. Communication makes the nexus of predictability, connectivity, and accountability visible, usable, and then functional.”

Remarks of Dr. Nils J. Diaz,  
Chairman U. S. Nuclear Regulatory Commission  
Monday, June 5, 2006

## 1. Excessive Delay

NRC failed to address the proposed rulemaking in a timely manner<sup>4</sup> and demonstrated no sense of urgency following the 9-11 attacks. The TMI Alert entrance guard petition for rulemaking was filed on September 12, 2001.<sup>5</sup>

NRC Repeatedly rescheduled the proposed rulemaking without explanation.<sup>6</sup>

NRC stretched the time for resolution from “months,” to “next year,” and finally to “undetermined.”<sup>7</sup>

NRC merged<sup>8</sup> our petition with another rulemaking (Power Reactor Security Requirements) five years into the process. We were in effect back to “square one.” The lack of documentation by the NRC reveals we had always been only at the starting line.

## 2. Misled Congressional Leaders

NRC hid from Congress the fact that NRC staff had decided that entrance guards are not needed<sup>9</sup> and that the entrance guard petition had been by de facto “denied.” Additionally, the letters to Congressional leaders<sup>10</sup> state that entrance guards are “already being considered in the ongoing Power Reactor Security Requirements rulemaking.” (Our proposed rulemaking preceded that rulemaking by five years.)

## 3. Communications and Procedural Failures

NRC failed to send correspondence to TMI Alert on 13 separate occasions when they re-scheduled the petition resolution date. NRC never provided a “periodic update” as claimed<sup>11</sup> with one exception: when NRC merged our petition with another rulemaking.

NRC failed to announce in its “current news”<sup>12</sup> section of its web page dedicated to our rulemaking, that a merger had occurred. NRC never corrected this despite several requests from us.

NRC did not provide links to our petition from its “Power Reactor Security Requirements” web page<sup>13</sup> despite the merger and repeated requests to include links.

NRC failed to state on its “background information” web page<sup>14</sup> for its “Power Reactor Security Requirements” rulemaking that our petition for rulemaking had been incorporated into that rulemaking. (The NRC did provide merger information for another petition for rulemaking but not ours.)

NRC incorrectly listed our petition as “completed” for several weeks on its web site.<sup>15</sup>

NRC failed to answer my inquiry<sup>16</sup> whether the additional public comments would be forwarded to me.

NRC failed to automatically forward those comments to me as per procedure.<sup>17</sup>

NRC failed to count the additional entrance guard comments in its summary statistics.<sup>18</sup>

Our petition (PR-73-11) became an invisible addendum to 200+ page rulemaking,<sup>19</sup> not a word of it was listed, nor a reference that it had been merged into the Power Reactor Security Requirements rule-making.

NRC notices published in the Federal Register regarding Power Reactor Security Requirements failed to include links to our petition for rulemaking and background information.<sup>20</sup>

Our supplemental comments for entrance guards (Adobe Acrobat file) included clear and detailed color pictures ([see appendix](#)) depicting the entrance at Three Mile Island. However, our document was available from the NRC ADAMS<sup>21</sup> server and at [www.regulations.gov](http://www.regulations.gov)<sup>22</sup> only as a low quality black and white printout which obscured our rationale.

NRC failed to provide in its rationale of the Final Rulemaking<sup>23</sup> “a thorough analysis”<sup>24</sup> of our “visual deterrence” argument.<sup>25</sup> In fact, the Nuclear Energy Institute (NEI) states that guards and physical security features provide a strong and highly visual deterrent.<sup>26</sup> (NEI

establishes the industry's policies on key issues and testifies to Congress.) It appears that the NRC cannot dispute the fact that entrance guards provide a visual deterrent and therefore has ignored our argument in its rationale against entrance guards. It should be noted that the NRC originally stated that barriers are a "visual deterrent." The current rulemaking has dropped the word "visual."<sup>27</sup>

NRC cut from its rulemaking the phrase "early detection."<sup>28</sup> Rather than defining more accurately the objective, responsibilities and benefits of early detection which entrance guards would provide, the NRC simply cut the entire idea from its rulemaking.

NRC cunningly switched the substance of our argument of maintaining control of emergency response routes to one of "target sets." Licensees are to maintain control of approach routes.<sup>29</sup> We argued that the bridges at TMI should be considered targets. However, by changing the focus to the "definition of a target" as defined by the "Design Basis Threat," the NRC staff has rejected our concern. The NRC's explanation was a sleight-of-hand diversion instead of meeting the objectives of the rule, i.e. maintaining control of emergency response routes to allow for offsite emergency mitigation.

Additionally, the NRC argued that all bridges and local roads are vulnerable to attack – implying the question – Why require a licensee to protect a bridge?<sup>30</sup> The NRC's justification here goes beyond the scope of the rulemaking and common sense.

The NRC could have altered the Design Basis Threat (DBT) in its most recent update to account for entrance routes as targets. The DBT continues to be deficient against certain real world attacks, for example: attacks using multiple vehicles to bomb one target. (It should be noted that the NRC will now require licensees to add specific backup capabilities to the Central Alarm Station.<sup>31</sup> Although it is not a "target" as defined by the DBT, the Commission has now correctly recognized its functional importance. The same reasoning must be applied to emergency response routes.)

NRC failed to inform me by letter of several security rulemaking meetings which discussed our rulemaking.



NRC failed to announce in its press release <sup>32</sup> that our merged petition would be discussed at an upcoming public meeting. The press release did state that another petition for rulemaking would be addressed, but ours was left out of the announcement.

NRC failed to announce in its press release <sup>33</sup> that our merged petition would be discussed at an upcoming re-scheduled public meeting.

NRC was going to deny me participation in the public meeting on the merged rulemaking. I had to insist they follow their procedures. The NRC had no rationale for initially stating that I could not participate. Public stakeholders should not have to argue this point.

NRC conference call system did not work properly and precluded my participation during the first hour of the meeting. <sup>34</sup>

NRC information package of available background documents for the public meeting (3/9/2007) did not include our petition for rulemaking. <sup>35</sup>

NRC transcripts <sup>36</sup> mistakenly report that our discussion was on entrance “cards,” not entrance guards.

NRC failed to provide the PR-73-11 background materials at the public meeting <sup>37</sup> as they did for the other petitions which had been merged. <sup>38</sup>

NRC failed to have PR-73-11 documents <sup>39</sup> listed in their rulemaking forum for several months when that portion of the web site had been hacked. <sup>40</sup> Rather than fix the web site problem, or post the documents on a “mirror site,” the NRC continued to deny that there was a serious problem.

No additional public comments for our merged petition were generated through any NRC notification. NRC did not take action to properly publicize and link data. Some additional comments from the Harrisburg PA area were received because of local media coverage.

NRC failed to inform me when the petition was closed. NRC Staff claimed they could not find my phone number or address. I learned that the petition was closed from the Union of Concerned Scientists.

NRC issued a confusing and unclear decision. Other petitions are decided with a letter clearly indicating “acceptance,” “partial acceptance” or “denial.” NRC’s correspondence only indicated that the petition was “considered resolved and closed.”<sup>41</sup>

NRC staffer stated I will not receive any correspondence indicating that our entrance guard petition was denied.

NRC has no real “hard” rules or requirements for petition handling.

NRC Commissioner’s staffer wanted to use TMI Alert’s petition as the quintessential example of NRC petition handling failures. The staffer then failed to invite me to a special public meeting on petition problems as promised.

This many failures are not due to oversight or negligence. They are designed to discourage public input and participation. Bringing the deficits to the attention of the NRC did no good with one exception (a seat at the table). But, we are convinced the bottom line is that, 1. NRC has known all along that it does not want entrance guards and 2. NRC does not want a public relation disaster from stating that fact in writing. Therefore, the NRC deliberately "tabled" the petition for years until it found a way to obfuscate the issue from the public. Furthermore, by delaying this action for such a long time after the 9-11 attacks, the public has become somewhat complacent about security issues.

Former NRC Commissioner Victor Gilinski has been highly critical of the NRC’s public dealings. He described the NRC commissioners as being pre-occupied with “sidelining public hearing participants from the nuclear licensing process”<sup>42</sup> and described the commission’s attitude as “repressive tolerance.”<sup>43</sup>

Although this petition did not set the record for the longest NRC delay,<sup>44</sup> the NRC probably did set a record for misconduct; specifically for disregarding procedures, lack of openness, poor communications, and for treating the stakeholders unfairly.<sup>45</sup>

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<sup>1</sup> TMI Alert is a citizens' safe energy group and watchdog of nuclear power plant issues. TMI Alert was formed in 1977 in Harrisburg PA. <http://www.tmia.com>

<sup>2</sup> Petition for Rulemaking PRM-73-11 submitted by Scott D. Portzline, TMI Alert, requesting the NRC to post at least one armed guard at each entrance to the "owner controlled areas" surrounding all U.S. nuclear power plants. <http://www.tmia.com/petition.pdf> or <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=NRC-2001-0023>

<sup>3</sup> Letter from former NRC attorney Peter Crane to an NRC program director complaining of a similar problem with missing documentation regarding a petition for rulemaking. "The following may be an exercise in futility, given the NRC's obduracy to date, but let me urge you to rethink your letter, and consider whether correcting the omission might not after all be preferable to yet more explanations of why the omission remains uncorrected." April 7, 2008. ADAMS accession number ML081120116.

<sup>4</sup> Management Directive 6.3, "The Rulemaking Process" p.9 July 31, 2001. Responsibilities of NRC lead office. "Ensures the timely completion of rulemaking actions." ADAMS accession number ML051680185.

<sup>5</sup> Petition for rulemaking published in the Federal Register November 2, 2001 p 55603 <http://frwebgate5.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=17120323480+3+2+0&WASAction=retrieve>

<sup>6</sup> NUREG 0936 NRC Semi Annual Report Regulatory Agenda 2002-2007 inclusive <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0936/>

<sup>7</sup> Ibid

<sup>8</sup> Letter to Scott D. Portzline from A.L. Vietti-Cook informing that the Commission will be considering PRM-73-11 during the resolution of public comments on Proposed Rule, PR 50,72 and 73 "Power Reactor Security Requirements" <http://www.regulations.gov/fdmspublic/component/main?main=DocumentDetail&o=09000064803c4f56>

<sup>9</sup> "As noted in the draft final rule, the staff does not recommend incorporating the petitioner's suggestion into Part 73. The NRC staff concluded that establishing a prescriptive requirement to post armed security personnel in the OCA [Owner Controlled Area] is not necessary." <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2008/secy2008-0099/2008-0099scy.html>

<sup>10</sup> "In resolving the petition, the Commission concluded that the issues raised in the petition for rulemaking are appropriate for consideration and, in fact, are already being considered in the ongoing 'Power Reactors Security Requirements' rulemaking. NRC staff will address the comments filed in the petition for rulemaking as part of the 'Power Reactor Security Requirements' rulemaking." ML081220609.doc [http://adamswebsearch2.nrc.gov/idmws/doccontent.dll?library=PU\\_ADAMS^PBNTAD01&ID=082180011](http://adamswebsearch2.nrc.gov/idmws/doccontent.dll?library=PU_ADAMS^PBNTAD01&ID=082180011)

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<sup>11</sup> Letter to Scott Portzline from NRC Annette L. Vietti-Cook Secretary of the Commission Office of Rulemakings and Adjudications Staff December 27, 2006. “The NRC staff has periodically contacted you regarding the status of a petition for rulemaking which you submitted on September 12, 2001.”

[http://adamswebsearch2.nrc.gov/idmws/doccontent.dll?library=PU\\_ADAMS^PBNTAD01&ID=070160025](http://adamswebsearch2.nrc.gov/idmws/doccontent.dll?library=PU_ADAMS^PBNTAD01&ID=070160025)

<sup>12</sup> As captured on 8/18/2007 (no longer available)

[http://ruleforum.llnl.gov/cgi-bin/library?source=html&library=TMI\\_PRM\\_info&file=news&st=petitions-a](http://ruleforum.llnl.gov/cgi-bin/library?source=html&library=TMI_PRM_info&file=news&st=petitions-a)

<sup>13</sup> As captured on 8/18/2007 (no longer available)

[http://ruleforum.llnl.gov/cgi-bin/library?source=html&library=secreq\\_info&file=background&st=prule](http://ruleforum.llnl.gov/cgi-bin/library?source=html&library=secreq_info&file=background&st=prule)

<sup>14</sup> Ibid

<sup>15</sup> As captured on 10/13/2008 (no longer available)

<http://www.nrc.gov/about-nrc/regulatory/rulemaking/completed.html>

<sup>16</sup> February 1, 2007 letter to NRC secretary Ms. Vietti-Cook from Scott Portzline for TMI Alert

[http://adamswebsearch2.nrc.gov/idmws/doccontent.dll?library=PU\\_ADAMS^PBNTAD01&ID=070390110](http://adamswebsearch2.nrc.gov/idmws/doccontent.dll?library=PU_ADAMS^PBNTAD01&ID=070390110)

<sup>17</sup> Responsibilities of the Office of Administration: “Forwards public comments on petition actions to the lead office and to the petitioner.” Management Directive 6.3, “The Rulemaking Process” p.8 July 31, 2001. ADAMS accession number ML051680185.

<sup>18</sup> NRC SECY-08-0099 July 9, 2008

<http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2008/secy2008-0099/2008-0099scy.pdf>

<sup>19</sup> Federal Register October 26, 2006 Nuclear Regulatory Commission Power Reactor Security Requirements

<http://frwebgate4.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=967247174974+5+2+0&WAIAction=retrieve>

<sup>20</sup> Transmittal of Management Directive 6.3, “The Rulemaking Process Handbook” P.17, June 02, 2005 “Prepare an FRN announcing the public availability of the material and/or soliciting public comment, as appropriate.” ADAMS accession number ML051680185.

<sup>21</sup> [http://adamswebsearch2.nrc.gov/idmws/doccontent.dll?library=PU\\_ADAMS^PBNTAD01&ID=070390110](http://adamswebsearch2.nrc.gov/idmws/doccontent.dll?library=PU_ADAMS^PBNTAD01&ID=070390110)

<sup>22</sup> <http://www.regulations.gov/fdmspublic/ContentViewer?objectId=09000064803c5e97&disposition=attachment&contentType=pdf>

<sup>23</sup> Final Rulemaking - Power Reactor Security Requirements (Rin 3150-Ag63) SECY-08-0099”

<http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2008/secy2008-0099/enclosure3.pdf>

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<sup>24</sup> "In addition to soliciting comment on proposed rules, agencies must consider all public comments received when drafting and justifying final regulations. This is why the statement of considerations for a final rule must include a thorough analysis that details the agency's response to each substantive comment." Transmittal of Management Directive 6.3, "The Rulemaking Process" June 02, 2005. ADAMS accession number ML051680185.

<sup>25</sup> TMI Alert petition for rulemaking. "We believe that there should be a clear and visible security deterrent at the entrances. The NRC has essentially argued for years that nuclear plants are 'hardened targets.' However, should terrorists perform reconnaissance missions at nuclear power plants as they have at other targets in recent foreign and US terrorists' attacks, the first thing they would observe at many sites is that the entrance is open and unguarded. The deterrent value of armed guards at the entrances must not be downplayed. Stopping an attack in its planning stages would be the ideal situation if terrorists conclude that nuclear plants are hardened targets." 9/12/2001. <http://www.tmia.com/petition.pdf>

<sup>26</sup> "The industry's security programs combine strong physical security features with highly trained paramilitary security professionals. Both features are highly visible and provide a strong deterrent to anyone considering attacking a nuclear power plant." Implications of Security Force Federalization on Nuclear Power Plant Security, December 2001 Nuclear Energy Institute. [http://www.nei.org/filefolder/security\\_force\\_federalization\\_white\\_paper.pdf](http://www.nei.org/filefolder/security_force_federalization_white_paper.pdf)

<sup>27</sup> "The use of physical barriers for 'visual deterrence' is a long-standing professionally accepted application. Nonetheless, the Commission agrees that the term 'visual' is not necessary and has deleted the term 'visual' from the final rule." Integrated Comment Responses Supporting Final Rule: Power Reactor Security Requirements June 2008, p.47 <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2008/secy2008-0099/enclosure3.pdf>

<sup>28</sup> Ibid. "The Commission has revised the final rule to delete the phrase 'early detection'." p.104 <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2008/secy2008-0099/enclosure3.pdf>

also

"The Commission received several comments the proposed requirement of § 73.55(d)(1) to provide 'early detection, assessment, response to unauthorized activities within any area of the facility' was too broad and could unnecessary regulatory burden. The Commission agrees with the comment and has deleted terms and revised the language to clarify the primary responsibility of the security organization. The intent is that the security organization will focus upon the effective implementation of the physical protection program which in turn is designed to protect the facility from the design basis threat of radiological sabotage with high assurance." Final Rulemaking - Power Reactor Security Requirements, p 43. <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2008/secy2008-0099/2008-0099scy.pdf>

<sup>29</sup> "The licensee shall establish and maintain physical barriers in the owner controlled area to deter, delay, or prevent unauthorized access, facilitate the early detection of unauthorized activities, and control approach routes to the facility." Power Reactor Security Requirements, Federal Register Vol. 71, October 26, 2006. p. 62852 [http://bulk.resource.org/gpo.gov/register/2006/2006\\_62852.pdf](http://bulk.resource.org/gpo.gov/register/2006/2006_62852.pdf)

also

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“Because of changes to the threat environment the Commission has determined that control of all vehicle approach routes is a critical element of the onsite physical protection program.”

Approaches. Particular emphasis must be placed on main and alternate entry routes for law enforcement or other offsite support agencies and the location of control points for marshaling and coordinating response activities. Power Reactor Security Requirements, Federal Register Vol. 71, October 26, 2006. p. 62831.

[http://bulk.resource.org/gpo.gov/register/2006/2006\\_62831.pdf](http://bulk.resource.org/gpo.gov/register/2006/2006_62831.pdf)

<sup>30</sup> Ibid. “In addition, the Commission has determined that local roads and bridges that are not subject to licensee control are equally important and vulnerable to attack.” Integrated Comment Responses Supporting Final Rule: Power Reactor Security Requirements U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, June 2008, p. 63

<http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2008/secy2008-0099/enclosure3.pdf>

<sup>31</sup> Power Reactor Security Requirements, Federal Register Vol. 71, October 26, 2006 p. 62713

[http://bulk.resource.org/gpo.gov/register/2006/2006\\_62713.pdf](http://bulk.resource.org/gpo.gov/register/2006/2006_62713.pdf)

<sup>32</sup> NRC News No. 07-017 January 31, 2007

<http://www.nrc.gov/reading-rm/doc-collections/news/2007/07-017.html>

<sup>33</sup> NRC News No. 07-024 February 23, 2007

<http://www.nrc.gov/reading-rm/doc-collections/news/2007/07-024.html>

<sup>34</sup> Lance Rakovan: “I’ve been talking a lot about the phones and I know we have almost 20 stakeholders that were planning in to call. I wanted to do a quick check so we can see just who has called in at this point. So if people on the phone could identify yourselves and the group that you’re with, that would help us out.”

(Off the record telephone discussion.)

Lance Rakovan: “I apologize for this, guys. I do not know what happened here. Yes, this will be on the transcript so you can see what the discussions were. I’m sure this is very pertinent to the rule.” Official Transcript of Proceedings Nuclear Regulatory Commission, Proposed Power Reactor Security Rulemaking Public Meeting, Rockville, Maryland, March 9, 2007 P207-208 NRC ADAMS accession number ML070730399.

<sup>35</sup> Ibid p 207

<sup>36</sup> Ibid p 203

<sup>37</sup> Ibid p 208

<sup>38</sup> Ibid

<sup>39</sup> “The NRC’s RuleForum “Web site is currently unavailable.” Website Offline Notification as captured on 10/24/2007. <http://sdcsl1.llnl.gov/ruleforum.html> (no longer available)

<sup>40</sup> PC Magazine Security Watch Monday August 27, 2007

[http://blogs.pcmag.com/securitywatch/2007/08/livermore\\_hacked\\_1.php](http://blogs.pcmag.com/securitywatch/2007/08/livermore_hacked_1.php)

<sup>41</sup> Letter from NRC Executive Director for Operation to Scott Portzline July 1, 2008 ADAMS accession number ML081140746.

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<sup>42</sup> Former NRC Commissioner Victor Gilinsky, The future of the Nuclear Regulatory Commission, April 25, 2008. “Nothing has occupied its commissioners as much as sidelining public hearing participants from the nuclear licensing process. That's been the main motive behind so-called licensing reforms for more than 30 years, including the newly combined construction and operating plant license. To be doubly safe, the commission has drastically curtailed the interveners' right to cross-examination and access to documents. For all its talk about openness, the NRC's interaction with the public can best be described as repressive tolerance.” The Bulletin of the Atomic Scientists <http://www.thebulletin.org/node/2263>

<sup>43</sup> Ibid

<sup>44</sup> NRC Takes 32 years to respond to petition on radiation. Boston Globe, 4/11/2008. [http://www.boston.com/news/local/vermont/articles/2008/04/01/nrc\\_takes\\_32\\_years\\_to\\_respond\\_to\\_petition\\_on\\_radiation/](http://www.boston.com/news/local/vermont/articles/2008/04/01/nrc_takes_32_years_to_respond_to_petition_on_radiation/)

<sup>45</sup> “It is the policy of the U.S. Nuclear Regulatory Commission to develop quality rules that are consistent with the requirements of all applicable laws and regulations and to conduct rulemakings using a process that is effective, efficient, and open.” Transmittal of Management Directive 6.3, “The Rulemaking Process” June 02, 2005. ADAMS accession number ML051680185.

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## APPENDIX


### NRC Commissioner Greta Joy Dicus - February 13, 2002

“The NRC has learned over the years that our actions must be transparent. It is imperative that the public, legislative bodies, those most impacted by a pending action, and the media are well- informed and have a meaningful opportunity to participate in the process.

By providing more clarity and being timely in our responses to interested parties, we have seen increased effectiveness in the way that we can transmit information and better communicate with the public, Congress, impacted entities, and the media. The result is the ability to resolve difficult issues in an efficient manner.

Electronic communication, through the use of our newly redesigned web site (at [www.nrc.gov](http://www.nrc.gov)), has proven to be extremely helpful in providing information quickly to those that seek it. I cannot overemphasize the importance of transparency. Transparency may require a cultural change in perspectives or attitudes concerning the importance of communicating with internal and external stakeholders.”



Currently the bridges have been in effect, conceded to the terrorists. A guarded and closed vehicle barrier is needed to control these emergency response routes which are mandated by the NRC. 

**Figure 1**



*This view is from the island looking outward toward the north entrance. Behind the van is one of the bridges and beyond that is the unguarded north entrance. A public spokesman for TMI told reporters, "The real security begins at the vehicle barrier and check point." (Middletown Press and Journal 9/14/2005)*

**Figure 2**



*This photo was taken two weeks before the 9/11 attacks and published in the US News & World Report Magazine on 9/17/2001.*

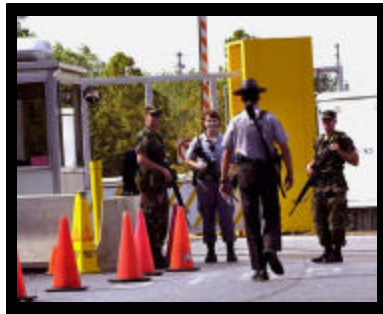


**Question:** Which of the following photographs taken at Three Mile Island portray(s) a protected entrance to would-be attackers or recognizance teams?

**A**



**B**



**C**



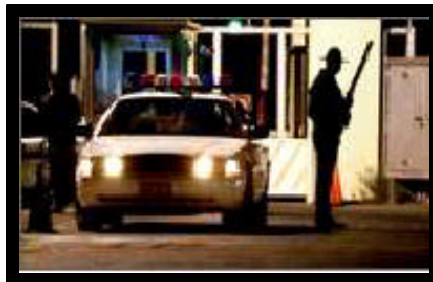
**D**



**E**



**F**



The correct answer is **A, B, E and F**. Photograph **C** shows an open vehicle barrier. Although photographed on September 8, 2001 (three days before the attacks), photograph **D** is the current condition of the north entrance at Three Mile Island -- once again wide open and unmanned. (see figure 2, page2)

3. A requirement for entrance guards would be consistent with RIN 3150-AG63 regarding site specific factors, which by mandate, must be taken into account.

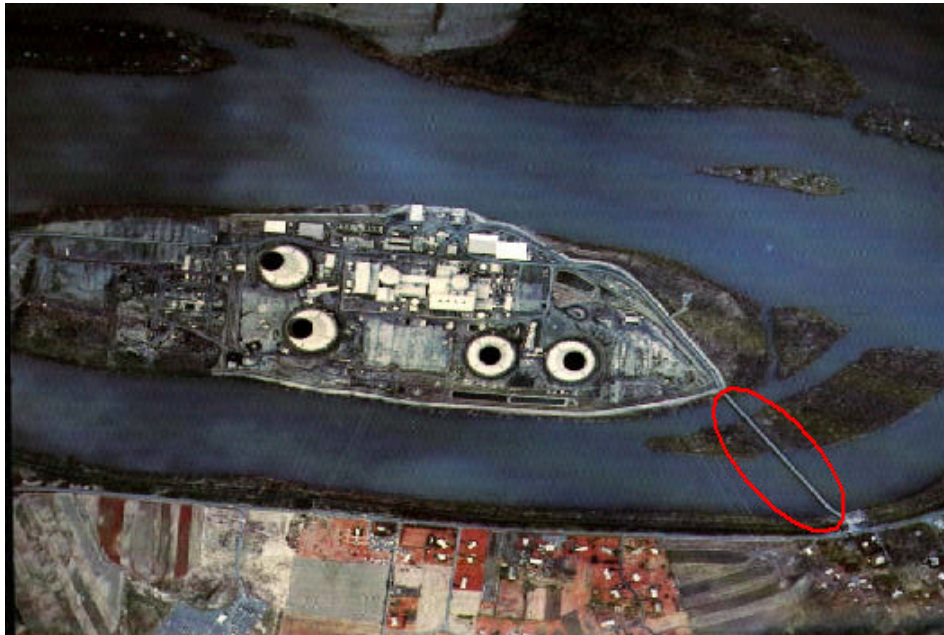
"Licensees shall describe the site-specific factors affecting contingency planning and shall develop plans for actions to be taken in response to postulated threats." <sup>16</sup>

Also:

"The safeguards contingency plan must include a site description, to include maps and drawings, of the physical structures and their locations. (A) The site description must address the site location in relation to nearby towns, transportation routes (e.g., rail, water, air, roads), pipelines, hazardous material facilities, onsite independent spent fuel storage installations, and pertinent environmental features that may have an effect upon coordination of response operations.

"Approaches. Particular emphasis must be placed on main and alternate entry routes for law-enforcement or other offsite support agencies and the location of control points for marshaling and coordinating response activities." <sup>17</sup>

**Figure 3**



*This overhead photograph highlights the north entrance bridge at TMI*

<sup>16</sup> Federal Register / Vol. 71, No. 207 / Thursday, October 26, 2006 / Proposed Rules p. 62872

<sup>17</sup> Ibid p. 62872