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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

March 6, 1989

MEMORANDUM FOR: Victor Stello, Jr.
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION/DISCUSSION AND VOTE, 3:30 P.M., THURSDAY, FEBRUARY 23, 1989, COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

1. SECY-88-204 - Final Rule on Emergency Preparedness-for Fuel Cycle and Other Radioactive Material Licensees

The Commission, by a 3-2 vote,* approved (with Chairman Zech and Commissioners Carr and Rogers agreeing) a final rule which upgrades emergency preparedness requirements for fuel cycle and other radioactive material licensees, as modified on the attached page.

Commissioner Roberts disapproved the rule, he would have approved a rule based on more realistic assumptions. commissioner Curtiss disapproved, indicating that he believes that the justification for the action proposed is exceedingly weak. His separate comments, to be published with the rule are attached.

* Section 201 of the Energy Reorganization Act, 42 U.S.C. Sec. 5841, provides that action of the Commission shall be determined by a "majority vote of the members present-" Commissioner Rogers was not present when this item was affirmed. In order to allow the will of the majority to prevail, Commissioner Roberts did not participate in the formal vote. Accordingly, the formal vote of the Commission was 2-1 in favor of the decision. Commissioners Rogers and Roberts, however, had previously indicated that they would respectively approve and disapprove this paper and had they been present they would have affirmed their prior votes.

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The rule, as modified, should be returned for signature and publication in the Federal Register.
(EDO) (SECY Suspense: 4/3/89)

Attachments:
As stated

cc: Chairman Zech
Commissioner Roberts
Commissioner Carr
Commissioner Rogers
commissioner Curtiss
OGC
GPA
PDR - Advance
DCS - Pl-124

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(x) Training: A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency, including and any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. so. the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as mos t
pro able for the specific site, including the use of team training for such scenarios.

(xi) safe shutdown: A brief description of the means of restoring the facility to a safe condition after an accident.

(xii) Exercises: Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the
check and update of all necessary telephone numbers. The 'licensee sh all
invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the specif

ic
site and -the scenarios shall-not be Known to most exercise participan
ts.
The licensee shall critique each exercise using individuals not having
direct implementation responsibility for the plan. Critiques of exerc
ises
must evaluate the appropriateness of the plan, emergency procedures,
facilities, equipment, training of personnel, and overall effectivenes
s of
the response. Deficiencies found by the critiques must be corrected.

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Commissioner Curtiss opposed this rule and expressed the follow'

The justification for the action proposed here is exceedingly weak -- if not nonexistent. In particular, I have the following concerns:

1. The costs of the proposed action dwarf the negligible benefits. According to NUREG-1140, the annualized costs of establishing and maintaining emergency plans of the sort that are envisioned in the proposed rule range from $30,000 to $77,000 per year. The resulting benefits range from $.20 to $4 per year. Resulting protective actions could save from 2E-8 to 4E-7 (i.e. .00000002 to .0000004) lives per year per facility. (NUREG-1140, pp. 109-112). Although I appreciate the fact that this action is not subject to the backfit rule, numbers of this sort should nevertheless give us pause about moving forward. In short, there is little apparent need for the rule from a safety standpoint. As the staff acknowledges:

The cost of this preparedness may not be justified in terms of protecting public health and safety. Rather, we would justify it in terms of the intangible benefit of being able to reassure the public that if an accident happens, local authorities will be notified (presumably because the proposed rules will require licensees and local officials to practice notification procedures in periodic drills) so that they may take appropriate actions . . . . (T)he NRC feels that such preparedness represents a prudent step which should be taken in line with the NRC's philosophy of defense-in-depth . . . . (NUREG-1140, p. 112).

The accident assumptions employed in the proposed final rule are unrealistic and continue an unfortunate trend that I would hope we would some day address -- not only for fuel cycle facilities, but for reactor licensees as well. This action will only make it more difficult if and when we get to the point of addressing the technical underpinning for our emergency planning requirements for nuclear power plants.

3. The fact that we have already issued orders requiring major fuel cycle and materials licensees to have emergency plans in place is not, in my view, a sufficient justification for now promulgating a rule codifying those orders.

4. The emergency plans required by the proposed rule would most likely be ineffective against the most probable fast-breaking accidents for fuel facilities. Because of the nature of such accidents, very little can be done beyond the actions already in place for nonradiological emergencies.

5. Finally, the ACRS has expressed serious reservations about the need for such a rule in light of the existing plans for the fuel cycle facilities.