

November 9, 2001

Thomas W. Ortziger, Director
Illinois Department of Nuclear Safety
Michael Chamness, Director
Illinois Emergency Management Agency
State of Illinois Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704

Dear Mr. Ortziger and Mr. Chamness:

I am responding to your letter of July 24, 2001, concerning the Federal Emergency Management Agency's (FEMA's) proposed revision to the Radiological Emergency Preparedness Exercise Manual (REP-14). Your letter expressed concern about the timeliness requirement for prompt notification of the public by State and local officials.

The revision (Criterion 5.a.2) would require State and local governments to demonstrate during exercises an ability to notify the public of a "fast-breaking" emergency within 15 minutes of being notified by a nuclear plant licensee. This exercise evaluation criterion was based on a design objective that was established by the U.S. Nuclear Regulatory Commission (NRC) and is contained in Section IV.D.3 of Appendix E to Title 10, Part 50, of the *Code of Federal Regulations* (10 CFR Part 50). The FEMA proposal was published in the *Federal Register* on June 11, 2001 (66 FR 31342). The *Federal Register* notice invited comments, which were due on August 10, 2001.

In your letter, you note your major concern that State decision-makers should have time to consider the best and most effective means of protecting public safety, and that the requirement for a 15-minute notification may compromise this need.

Appendix E to 10 CFR Part 50 states that "[t]he licensee shall demonstrate that the State/local officials have the capability to make a public notification decision promptly on being informed by the licensee of an emergency condition." It further states that "[t]he design objective of the prompt public notification system shall be to have the capability to essentially complete the initial notification of the public within the plume exposure pathway EPZ [emergency planning zone] within about 15 minutes. The use of this notification capability will range from immediate notification of the public (within 15 minutes of the time that State and local officials are notified that a situation exists requiring urgent action) to the more likely events where there is substantial time available for the State and local government officials to make a judgment whether or not to activate the public notification system."

The NRC agrees that providing as much time as practicable for implementing protective actions is in the interest of public health and safety. When the Commission selected timeliness criterion for notifying the public of a "fast-breaking" emergency, it considered the 15-minute

regulatory criterion to be a design objective; that is, the licensees' programs should be designed such that public notifications are capable of being made within about 15 minutes from the time that the licensee notifies the State. However, the Commission did not view the criterion as a rigid timing requirement to be enforced during each exercise and timed from the moment that State and local officials are informed of the event.

The interpretation of the rule as a design objective was upheld during a 1990 Atomic Safety and Licensing Appeal Board review of the Seabrook Station's public alert capability, which concluded that the 15-minute regulatory criterion contained in Appendix E to 10 CFR Part 50 is a design objective and not a rigid requirement. *Public Service Company of New Hampshire* (Seabrook Station, Units 1 and 2) ALAB-935, 32 NRC 57 (1990). In keeping with the *Seabrook* determination and the language contained in Appendix E to 10 CFR Part 50, the NRC recently recommended that FEMA defer publication of Criterion 5.a.2 in its final form. In its September 12, 2001, *Federal Register* notice (66 FR 47526), FEMA deferred final publication of the criterion.

The NRC staff has provided your comments to FEMA and is continuing to work with FEMA in the development of an evaluation methodology consistent with the *Seabrook* decision.

Thank you for your letter.

Sincerely,

/RA/

Richard A. Meserve