State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF ENVIRONMENTAL SAFETY AND HEALTH
BUREAU OF NUCLEAR ENGINEERING
PO BOX 415
TRENTON, NEW JERSEY 08625-0415
TEL (609) 984-7700
FAX (609) 984-7513

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Acting Commissioner

April 23, 2010

Christopher Miller, Deputy Director
US Nuclear Regulatory Commission
11545 Rockville Pike
Mail Stop T3B46M
Rockville, Maryland 20852

Dear Mr. Miller,

I am writing to you to express my concerns related to NUREG–0654/FEMA–REP–1, Rev. 1, Supplement 3, "Guidance for Protective Action Recommendations for General Emergencies"; Draft for Comment published in Federal Register / Vol. 75, No. 44 / Monday, March 8, 2010. While I understand the document is still within the public comment period and there is a formal mechanism for providing those comments, the concerns I have are outside of the technical review.

I had the opportunity to attend the NRC Public Meeting held in Rockville on April 13, 2010 to discuss NUREG–0654/FEMA–REP–1, Rev. 1, Supplement 3. Prior to the meeting, I had many discussions with colleagues from state and local government organizations across the country as Chair of the Conference of Radiation Control Program Director's Committee on Emergency Response Planning (HS/ER-5). In addition, I attended the open forum meeting at the National Radiological Emergency Preparedness Conference in Chicago and was able to solicit feedback from others in attendance. I would like to take this opportunity to provide you with some direct observations, feedback and suggestions.

1. Page 6 of the document states " Licensee.emergency plans are designed to support mitigative actions to ameliorate plant accidents, and an ongoing NRC study, (the State-of-the-Art Reactor Consequence Analysis, yet unpublished) concludes that mitigative actions will likely be successful." It is impossible to evaluate the validity of the conclusions drawn from the State-of-the-Art Reactor Consequence Analysis until it is published.

2. Section 6, References, lists the supporting documents for the draft NUREG–0654/FEMA–REP–1, Rev. 1, Supplement 3. One of the documents listed is

NUREG/CR-6953, Vol. III. "Review of NUREG-0654, Supplement 3, 'Criteria for Protective Action Recommendations for Severe Accidents. Technical Basis for Protective Action Logic Diagram.'" NRC: Washington, D.C. 2010 Draft. It would appear from the title that this document is critical to the review and validation of the draft NUREG–0654/FEMA–REP–1, Rev. 1, Supplement 3 since it provides the technical basis. Yet the reference indicates that it is still in draft form and is not available for review.

3. During each of the two public forums that I attended, several very site specific concerns were raised that demonstrated some decision making gaps in applying the proposed logic diagram. Many of the site specific examples that have been brought to my attention were raised due to concerns over applying Evacuation Time Estimates (ETEs) to the logic. Realizing that there may be many more very site specific issues across NRC Regions and understanding that each site may need to take exceptions to the guidance based on site specific issues, it might be appropriate to gather additional stakeholder input through public meetings within each region.

My initial assessment of NUREG–0654/FEMA–REP–1, Rev. 1, Supplement 3, "Guidance for Protective Action Recommendations for General Emergencies"; Draft for Comment indicates that at least two documents necessary for the technical review of the draft guidance are not available. Early discussions and direct feedback with other stakeholders indicate to me that there may be some flaws in the logic specifically regarding the application of ETEs to decision making. These potential gaps in the logic need to be addressed at a more regional level than the current public input process has allowed.

Based on these observations, I would urge you to seriously consider removing this document from the docket and reissue the guidance once these concerns are addressed. At a minimum, cited documents should be made available in final form and the comment period extended to allow adequate time to evaluate the technical basis and applicability to NUREG–0654/FEMA–REP–1, Rev. 1, Supplement 3. Further supporting the need for a comment extension period is the obvious need to solicit regional stakeholder input for site specific issues related to the proposed logic diagram.

Thank you for your consideration. If you should have any questions please feel free to contact me at (609) 984-7701.

Sincerely,

Patrick Mulligan, Manager
NJ DEP
Bureau of Nuclear Engineering