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BOB MARTIN
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MEMORANDUM

To: NRC

From: Patrick Mulligan, Manager
State of New Jersey
Department of Environmental Protection
Bureau of Nuclear Engineering

Date: November 12, 2010

Subject: Public Meeting to Discuss Proposed Implementation Dates of the Draft
Emergency Preparedness Final Rule

I want to thank the NRC for providing an opportunity for stakeholders to comment on the proposed implementation dates of the draft emergency preparedness final rule. Unfortunately, due to scheduling conflicts I am not able to attend the meeting in Rockville on November 15, 2010 nor will I be available to participate via teleconference or web meeting. I would like to have my comments included with the meeting minutes for your consideration.

Based on my understanding of the content of the published documents related to the final rule, there is no mechanism included for licensees or state, county, local or tribal government agencies to request extension periods for extenuating circumstances. As you are aware, there are several parts to the rule change where responsibility for implementation is shared by both the licensee and Offsite Response Organizations (OROs). It is difficult to estimate the resources and time necessary for implementation by OROs until the process has begun. Portions of that process will not begin until the language of the final rule is published. There may very well be instances where both the licensee and OROs have made every effort in good faith to meet the implementation schedule but face challenges that cannot be resolved within the specified dates. Further, it is conceivable that these challenges are beyond the control of the organization responsible for implementation of that portion of the NRC rule. NRC should provide a mechanism and language for both the licensee and OROs to identify these situations and request a reasonable extension period for implementation.

One example that comes to mind is the implementation of the ETEs. Understanding that there is no clear date when the final census data will be made available for the REP planners to

use for a new ETE study, it is impossible to determine at this time with any accuracy when that process will start. Further, there are a limited number of contract vendors that perform ETE studies for the industry. With the requirement for each site to have a new study and the limited number of qualified companies to complete the work, it is unlikely that they will all be completed within the specified implementation schedule. For this instance, it would be prudent to grant an extension for an individual site.

Unfortunately, without access to the final version of the FEMA REP Program Manual and other related FEMA documents, it is impossible to predict what impact those changes may have on the implementation schedule. For example, FEMA guidance related to the backup alert and notification system and acceptable systems that meet their requirements could impact the state's ability to meet the NRC rule implementation schedule. This implementation schedule should be carefully coordinated with FEMA program changes so that there are no conflicts that would pose an impediment to implementation. This is particularly important with regard to the exercise cycle as well. Recent meetings attended by several state staff have indicated that there is still some discord between NRC and FEMA regarding the frequency of exercises where certain objectives need to be met. The language and implementation of the proposed eight year exercise cycle should be very clear to NRC, FEMA and OROs. A great deal of time and effort is invested in planning exercises well into the future in order to meet the exercise cycle requirements, it is imperative that there be no misunderstanding regarding this issue.

I would be happy to provide additional information directly to NRC if the feedback provided is unclear. Please feel free to contact me at (609) 984-7701 or by e-mail at patrick.mulligan@dep.state.nj.us. Thank you.

- c. Carol Shepard, Radiation Physicist 1
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