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Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

DISCUSSION ON SECY-79 -591 - PLANS FOR
COPING WITH EMERGENCIES AT PRODUCTION AND
UTILIZATION FACILITIES

(Open to Public Attendance)

Monday, December 3, 1979

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Pages 1 - 51

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

Discussion on SECY-79-591 - Plans for
Coping with Emergencies at Production and
Utilization Facilities
(Open to Public Attendance)

Commissioner's Conference Room
1717 H Street, N.W.
Washington, D. C.

Monday, December 3, 1979

The Commission met, pursuant to notice at 2:10 p.m.,
Joseph Hendrie, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

- Chairman Hendrie
- Commissioner Gilinsky
- Commissioner Kennedy
- Commissioner Bradford
- Commissioner Ahearne

ALSO PRESENT:

- L. Bickwit
- E. Hanrahan
- J. Hoyle
- M. Malsch
- M. Chopko
- J. Aron
- K. Goller
- B. Grimes
- M. Jamgochian

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P R O C E E D I N G S

1
2 CHAIRMAN HENDRIE: The Commission meets this
3 morning in a continuation of meetings of last week ---

4 COMMISSIONER BRADFORD: This morning?

5 CHAIRMAN HENDRIE: Did I say this morning? Well,
6 meets this afternoon, I'll amend that.

7 Some of us do run on later schedules than others,
8 however.

9 COMMISSIONER BRADFORD: Yes, but I thought I ran
10 on the latest of all.

11 CHAIRMAN HENDRIE: The subject is the emergency
12 planning role. Considerable progress has been made in this
13 area. I refuse to ascribe that to my absence last week, and
14 we have before us a version so current that the paper smokes
15 from the machine and has numerous handwritten edits in it
16 which seem to me, for the most part, to improve the matter.

17 I don't know whether Commissioners have had a
18 chance to go through the edits in detail. I have had a look
19 at them, have a couple of questions and not much beyond that.

20 Would you prefer to page through it, ask the
21 General Counsel what he has written here on -- He shakes
22 his head. I think we'd better not.

23 COMMISSIONER AHEARNE: I'm prepared to vote.

24 COMMISSIONER BRADFORD: I have one question.

25 CHAIRMAN HENDRIE: Why don't we deal with some

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1 questions.

2 COMMISSIONER BRADFORD: But mine is on the very
3 last page, so if anybody wants to start ---

4 CHAIRMAN HENDRIE: All right, mine start at page 3.

5 Under No. 1, about three-quarters of the way down
6 the page, under this option, it says: "The Commission can
7 grant an exemption from this requirement..." et cetera,
8 and then there is a list of three things that might be the
9 basis for an exemption, and I see that the word "or" is
10 scratched, and that kind of editing occurs also on page 4,
11 and I guess some place else.

12 I simply want to understand that that's improving
13 the use of the English language here and does not imply that
14 these possible bases for exemption are now becoming in series
15 rather than parallel, that indeed, an exemption might be
16 granted "if" ---

17 COMMISSIONER GILINSKY: Well, it does say "or" in
18 the last ---

19 CHAIRMAN HENDRIE: It does say "or" and we read it
20 then to be a set of three possible bases, anyone of which
21 might serve, if that's everybody's understanding.

22 MR. BICKWIT: That is our intention, either 1, 2, or
23 3.

24 CHAIRMAN HENDRIE: If that's our understanding, I
25 have no objection at all to the improvement, and I agree, in

1 fact, that the normal usage of the language would indicate
2 its removal at that point.

3 I had only one other and it was on page 14.
4 Anybody before then?

5 MR. BICKWIT: I have one that begins on page 13.

6 CHAIRMAN HENDRIE: Begins on page 13, all right.

7 MR. BICKWIT: This is a matter -- I have had a
8 chance to raise it with Commissioner Ahearne, but with no
9 other Commissioners.

10 Our feeling is that the discussion that begins on
11 the bottom of page 13 and running through the middle of 15,
12 doesn't correctly characterize the differences between the
13 alternatives, because some of the references to Alternative A
14 are equally applicable to Alternative B.

15 Namely, the basic criteria that would be used for
16 deciding whether a plant ought to be allowed to continue in
17 operation, and it seemed to us that that ought to be said,
18 and we have drafted some alternative language that would make
19 that clear that in the case of each alternative, the criteria
20 for continued operation ought to be the same.

21 COMMISSIONER AHEARNE: And my disagreement with
22 the General Counsel, really, is the way that this has come
23 about is that there was a set of language to describe one
24 alternative. I proposed an alternative which was different
25 than that, and in that proposal, I believed that it was

1 appropriate to retain the language that was originally
2 written to characterize the one alternative as applying only
3 to that one alternative. And I still believe that there is
4 a fundamental philosophical difference between the two
5 alternatives, and I'm concerned that the language written
6 for the one originally still carries with it the character
7 of the one.

8 MR. BICKWIT: I would agree that there is a
9 philosophical difference between the alternatives, but it
10 doesn't manifest itself in a difference in substantive
11 criteria. And this gives the impression, as presently
12 drafted, it gives the impression that it does.

13 COMMISSIONER AHEARNE: Well, as I mentioned to the
14 General Counsel, since it was a description of the
15 alternative which I was not in favor of, I would have no
16 problem if he just dropped all of that language.

17 MR. BICKWIT: I would prefer not to drop all of
18 that language, but I would strongly prefer dropping it to
19 leaving it in its present state.

20 The reason I would prefer not to drop it is that
21 it seems a healthy thing, and from a legal and a disclosure
22 standpoint, to specify why it is after a description of the
23 dangers associated with inadequate emergency planning, that
24 you would want to keep up in the face of plans which have
25 not been concurred in.

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1 COMMISSIONER BRADFORD: Let's see, Len, your
2 point is that that language is an adequate description of
3 Alternative A, but also encompasses parts of B?

4 MR. BICKWIT: That's right. When you are talking
5 about the reasons for permitting a plant to continue to
6 operate, these are reasons which are adopted by Alternative B.

7 COMMISSIONER BRADFORD: So what, your proposed
8 change would be to put something in there, a Footnote or
9 something saying that this --

10 MR. BICKWIT: Well, it would have some language.

11 COMMISSIONER BRADFORD: -- there are features of
12 Alternative B.

13 COMMISSIONER AHEARNE: Actually, I think he proposed
14 to write it so that it was, in theory, applying to both
15 Alternatives, those at that stage which I was having
16 difficulty seeing how that could be done.

17 COMMISSIONER GILINSKY: Where are you? What
18 language are you talking about?

19 MR. BICKWIT: We are talking about the references
20 on page -- Primarily the reference is on page 14, to ---

21 COMMISSIONER GILINSKY: Where are they?

22 MR. BICKWIT: At the top.

23 "Unless there is a compelling safety reason that
24 would prohibit operation, the NRC may properly weigh these
25 consequences in deciding whether to permit reactor operations.

1 This alternative reflects the view that the increment of
2 risk involved in permitting operations in the absence of
3 concurred-in plans is not undue in every case."

4 (Commissioner Kennedy arrived at the meeting, 2:15.)

5 MR. BICKWIT: The implication is that when you
6 are talking about Alternative B, that this cannot be said
7 for Alternative B. In fact, it applies to Alternative B,
8 in our view, to the same degree that it applies to Alternative
9 A.

10 COMMISSIONER GILINSKY: Well, given that one is
11 leaving open the possibility of an exemption, you are, in
12 effect, accepting this point of view.

13 MR. BICKWIT: That's our point.

14 COMMISSIONER GILINSKY: Yes, I guess I agree with
15 that. I'm not sure I would put it quite the way it is put
16 here.

17 CHAIRMAN HENDRIE: Let's see, what language would
18 you propose?

19 MR. BICKWIT: Well, I'm afraid Commissioners
20 haven't seen this language, but I'll distribute it: ---

21 CHAIRMAN HENDRIE: I haven't even heard it. I'm
22 anxious.

23 MR. BICKWIT: There has been just no time to ---

24 (Mr. Bickwit passes out the document.)

25 CHAIRMAN HENDRIE: If you have got one more, why I

1 think I have over distributed to the ---

2 MR. BICKWIT: I have a few more for anyone who is
3 interested.

4 CHAIRMAN HENDRIE: Let's see, where does it ---

5 COMMISSIONER GILINSKY: This replaces what?

6 MR. BICKWIT: At the top it says, "In lieu of
7 discussion starting on last paragraph of page 13 through
8 the first paragraph of page 15..."

9 CHAIRMAN HENDRIE: So instead of "It is important..."

10 MR. BICKWIT: Right. We start with: "Both
11 alternatives reflect the view..."

12 (Pause while Commissioners read the proposed change.)

13 COMMISSIONER GILINSKY: It seems to me that it
14 basically goes without saying, this is a problem you have
15 everytime you impose any new requirement, and we've opened
16 the possibility of an exemption. As there is for every
17 regulation and rule, unless we would initially state
18 that no exemptions will be permitted under any circumstances,
19 and I don't think that ever happens.

20 MR. BICKWIT: Well, as I said, I would prefer to
21 leave all of this out, to adopting the language that you
22 have in here, because while it may go without saying that
23 there will be exemptions in each case ---

24 COMMISSIONER GILINSKY: No. It doesn't go without
25 saying there will be exemptions, it goes without saying ---

1 MR. BICKWIT: The basis for it.

2 COMMISSIONER GILINSKY: -- that the possibility
3 is left open.

4 MR. BICKWIT: That's right. Well, by discussing
5 these exemptions, only with respect to Alternative A, you
6 give the impression when you are talking about Alternative B
7 that there is no basis for similar exemptions. And it is
8 that that I find objectionable.

9 COMMISSIONER GILINSKY: So you are suggesting a
10 second best course would be to take it out of Alternative A?

11 MR. BICKWIT: Yes.

12 COMMISSIONER GILINSKY: That's fine with me.

13 COMMISSIONER AHEARNE: Me too.

14 CHAIRMAN HENDRIE: Where would it take out from, and
15 to?

16 "It is important..." I guess, down to where?

17 MR. BICKWIT: Well, what we could do is take
18 everything out and -- I think it is probably best to just
19 take everything out.

20 CHAIRMAN HENDRIE: Yes, but to where?

21 COMMISSIONER AHEARNE: You've got to stop somewhere.

22 COMMISSIONER KENNEDY: I'm not sure but what you
23 are right, that the entire thing can go and we wouldn't lose
24 anything, but we are beyond that point.

25 CHAIRMAN HENDRIE: It would be just to the end of --

1 MR. BICKWIT: That crossed my mind.

2 CHAIRMAN HENDRIE: -- end of the paragraph ---

3 MR. BICKWIT: The first paragraph on page 15.

4 CHAIRMAN HENDRIE: Paragraph where? Page what?

5 MR. BICKWIT: Fifteen.

6 CHAIRMAN HENDRIE: Fifteen?

7 MR. BICKWIT: Yes.

8 COMMISSIONER AHEARNE: Oh, no. The end of the
9 first paragraph on 15?

10 MR. BICKWIT: Yes.

11 Just eliminate that discussion of the comparison
12 between the alternatives.

13 COMMISSIONER AHEARNE: No, because there is no
14 other -- I don't think there is any other description, at
15 least ---

16 MR. BICKWIT: Well, there has at the beginning of ---

17 COMMISSIONER AHEARNE: That particular insert,
18 I know doesn't exist anywhere else, because that was an
19 insert that I wrote in for ---

20 MR. BICKWIT: No, I'm not saying it doesn't add
21 anything, I'm saying I would rather have it out than leave
22 it the way it is. I would prefer what I have handed you.

23 COMMISSIONER AHEARNE: Yes, I know, but you are
24 now striking, it is not only the rationale, but you are
25 also striking the process.

1 MR. BICKWIT: Well, I think something that can be
2 drafted that -- to leave intact the differences between
3 the notice provisions and the difference between the
4 procedures without referring to criteria.

5 Our objection is that there is no difference
6 between the criteria. This gives the impression that there
7 is, and if we simply eliminate the reference to the criteria,
8 I think we can draft something. It has to be redrafted.

9 COMMISSIONER KENNEDY: Well, ought the public to
10 have some notion -- If we have some notion of what the
11 criteria are, shouldn't the public have that notion? I mean,
12 when did we decide that we should conduct these -- I withdraw
13 this.

14 COMMISSIONER GILINSKY: That's another proceeding.

15 COMMISSIONER KENNEDY: I forgot. That is the
16 star chamber has been accepted as the basic principle of
17 operation. I'm sorry. I was outvoted on that one.

18 COMMISSIONER BRADFORD: I was going to suggest
19 that if we can approve the rest of this document, we just
20 leave a hole there subject to OGC's coming up with an
21 agreed-upon statement of the difference in the two proposals
22 in this area, with the hope that we wouldn't have to meet
23 again on it.

24 MR. BICKWIT: Well, that's fine, but I think the
25 Commission ought to resolve the question raised by

1 Commissioner Kennedy, which is: "Do you want to refer to
2 the criteria here and give a basis for why you have adopted
3 them for both alternatives?"

4 CHAIRMAN HENDRIE: God, yes.

5 COMMISSIONER BRADFORD: I was assuming "yes".

6 CHAIRMAN HENDRIE: This is going to be a
7 complicated enough piece of thing that you are asking on --
8 for which you are asking for comment, even though the
9 comment period is long enough to try to give the people a
10 chance to reflect on it, to have a number of things in mind
11 here at this table, which we are not that far from
12 agreement on, and not to lay them out in the formal
13 publication, it would be very unfortunate, I think. I
14 think clearly, we want to describe the criteria and some of
15 the rationale behind it, and ---

16 MR. BICKWIT: I agree with that view ---

17 CHAIRMAN HENDRIE: -- On a thirty-second reading,
18 I don't have any trouble with the paper that you just passed
19 down as the way to do it, John, since you were the
20 objector on this, tell me what ---

21 COMMISSIONER AHEARNE: Okay. I would strike the
22 first sentence, which just sounds to me like something
23 that -- When you start saying it stands to reason something
24 cannot simply be done, I don't like the flavor of that
25 sentence.

1 COMMISSIONER KENNEDY: I mean, it's true.

2 COMMISSIONER AHEARNE: Well, it -- Something that
3 can't simply be done carries ---

4 COMMISSIONER GILINSKY: Why do we need the word
5 "simply"? I mean, that has the air of -- for the frivolous
6 action, it sounds to me like.

7 COMMISSIONER AHEARNE: Why don't you just start:
8 "Under both alternatives, if the deficiencies are not
9 significant for the particular power plant, the NRC is
10 satisfied there is adequate protection for the public health
11 and safety through alternative means, for example..."
12 as you say: "... excellent local emergency plans in
13 conjunction... or there are other compelling reasons" ---

14 COMMISSIONER KENNEDY: What does an "... excellent
15 local emergency plan..."?

16 COMMISSIONER AHEARNE: I didn't write that.

17 COMMISSIONER KENNEDY: Do we know what that is?

18 MR. BICKWIT: That is better than an average one.
19 I really don't know the origin of that sentence.

20 CHAIRMAN HENDRIE: That was a question -- I wasn't
21 sure that that was the right word, but could we postpone
22 discussion of that word until we deal with the larger
23 subject?

24 COMMISSIONER KENNEDY: In principle, except for
25 the word, that sounds fine to me. I agree with John.

1 COMMISSIONER AHEARNE: Okay. The right
2 phrase is that the plant would not be required to be shut-
3 down, but there is a distinction in the one case, at least
4 in my alternative, the licensee would have to show that.
5 He would have to demonstrate those.

6 MR. BICKWIT: That's right.

7 COMMISSIONER GILINSKY: Isn't the basic difference
8 that there is a different threshold for continued
9 operation of the plant. You are setting up a stiffer
10 condition in one alternative, and a lesser condition than
11 the other alternative.

12 MR. BICKWIT: I don't think that's correct.

13 I think what you are doing is setting up a
14 different procedure. The conditions are the same.

15 COMMISSIONER GILINSKY: I think, in effect, that
16 it is ---

17 COMMISSIONER KENNEDY: That was my impression of
18 what was written before. I thought that's what it was
19 supposed to be conveying.

20 COMMISSIONER AHEARNE: I think that's what it was
21 conveying, but I disagree as a practical matter you are
22 setting up a different ---

23 COMMISSIONER GILINSKY: I think, as a practical
24 matter you are setting up a different condition, and that ---

25 MR. BICKWIT: You may, as a practical matter, reach

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1 different results. I think the conditions are the same.

2 COMMISSIONER KENNEDY: If they are not, if they
3 are not intended to be, what is written here does not
4 convey the difference.

5 MR. BICKWIT: Well, how ---

6 COMMISSIONER GILINSKY: If nothing else, it comes
7 at a different point in time, and it is a more ---

8 COMMISSIONER AHEARNE: Let me put it this way, Len,
9 I would agree that under my alternative, the licensee must
10 demonstrate. And essentially what he must demonstrate are
11 those kinds of things.

12 MR. BICKWIT: Right.

13 Well, why don't we try our hand at something at
14 accords with your objectives and distribute it around this
15 afternoon.

16 COMMISSIONER AHEARNE: Well, in accord with both
17 alternatives, people whose responsibility it is.

18 MR. BICKWIT: Well, we are going to draft this.
19 I think our objectives will be satisfied.

20 COMMISSIONER BRADFORD: Well, the common objective
21 is the clear statement of the difference of the author,
22 that's right.

23 COMMISSIONER AHEARNE: Yes.

24 CHAIRMAN HENDRIE: I'd like to see the first
25 sentence or some appropriate form of it included.

1 COMMISSIONER GILINSKY: The first sentence of what?
2 This insert?

3 CHAIRMAN HENDRIE: Yes. Both alternatives, I don't
4 know.

5 COMMISSIONER KENNEDY: I would agree with Vick
6 that we delete the word "simply" which gives a frivolous
7 flavor which wasn't intended or wouldn't be intended.

8 CHAIRMAN HENDRIE: But that is, in fact, the basis
9 that you would consider are willing to have a role which
7 10 allows exemptions under one alternative or the other
11 courses under the other, and it seems to me appropriate to
12 say it.

13 COMMISSIONER BRADFORD: No. I think I would
14 delete the sentence, but as a first choice, as an alternative,
15 I would much rather focus on the users of the power than
16 the people living around the plants, the people who would
17 feel disruptive consequences.

18 CHAIRMAN HENDRIE: Yes.

19 COMMISSIONER GILINSKY: Now, what is the relationship
20 to the finding at the operating license stage, and the fact
21 that if you shut down a facility there are disruptive
22 consequences or there are consequences to people living
23 or using the power.

24 I mean, this has a bit of the flavor that we
25 hear -- of messages that we get from some quarters that if

1 you found that it was safe once, why isn't it safe today
2 and why are you making any changes. I don't really see
3 the connection between the two thoughts here.

4 COMMISSIONER KENNEDY: Gee, it never occurred to
5 me that they would be seen the same way, Vick. It is one
6 thing to make the statement, which it seems to me would not
7 be an acceptable one, certainly not from my point of view,
8 that if it is safe yesterday, it is safe today. It is quite
9 another thing to say, if they needed the power yesterday,
10 the probability is they need the power today, unless
11 somebody put up another power plant in the meantime, where
12 they turned off their lights.

13 COMMISSIONER GILINSKY: Fine. But why is the first
14 part there?

15 COMMISSIONER AHEARNE: I think you are both saying
16 the same thing.

17 I think you are both saying that the obvious point
18 is that a power plant that is in use, is generating
19 electricity that is being used, and if you shut it down there
20 would be some disruptive consequences when people are using
21 it.

22 COMMISSIONER KENNEDY: Yes.

23 COMMISSIONER GILINSKY: I think what we want to
24 say is that we are not unmindful in proceeding down this
25 road, of the consequences of turning power plants off for one

1 or another safety reasons.

2 COMMISSIONER AHEARNE: Yes. That kind of thought
3 I would have no problem with.

4 COMMISSIONER KENNEDY: That's okay.

5 COMMISSIONER GILINSKY: That's okay with me, too.

6 CHAIRMAN HENDRIE: Try it.

7 MR. BICKWIT: Okay.

8 CHAIRMAN HENDRIE: Okay, you have a mandate to
9 try to repair this area and we will negotiate further on
10 the particulars.

11 You have gotten some guidance on sentence one, let
12 me turn for a moment to the "excellent local plans" ---

13 COMMISSIONER GILINSKY: Is "excellent" better or
14 less good than "outstanding"?

15 COMMISSIONER KENNEDY: Do you mean if "outstanding"
16 it exists or ---

17 COMMISSIONER GILINSKY: Well, I don't know.

18 COMMISSIONER KENNEDY: -- is not yet received, or
19 what is it?

20 COMMISSIONER GILINSKY: "Outstanding" is crossed
21 out here and "excellent" is put in its place.

22 COMMISSIONER KENNEDY: I know.

23 CHAIRMAN HENDRIE: I think, neither word is what
24 you are looking for. You are looking for a word along the
25 lines of effective, or acceptable or adequate or sound or

1 something of that kind.

2 COMMISSIONER KENNEDY: Don't we have some criteria
3 that we have been talking about about what is acceptable?
4 And if we have, that's the word that is appropriate, isn't it?

5 CHAIRMAN HENDRIE: I recommend that to your
6 attention in the redrafting, and would propose not to
7 negotiate with it further.

8 MR. BICKWIT: All right.

9 CHAIRMAN HENDRIE: Now, Dick, did you have anything
10 up to this connection on that?

11 COMMISSIONER AHEARNE: Since you are on that
12 page, can I ask something?

13 CHAIRMAN HENDRIE: All right, yes.

14 COMMISSIONER AHEARNE: When you say, "... is not
15 undue.." I guess I would use, "... may not be undue."

16 CHAIRMAN HENDRIE: Where is that?

17 COMMISSIONER AHEARNE: That's at the bottom of that
18 paragraph in this insert that the General Counsel has given
19 us.

20 Instead of "... is not... may not be..."

21 MR. BICKWIT: Fine.

22 CHAIRMAN HENDRIE: Yes.

23 You know, in a certain sense -- well let it go.

24 The lack of any adequate plan might reasonably
25 be judged at an appropriate time to constitute an undue risk

1 in every case. Whether the absence of a concurred-in
2 plan is precisely equivalent to inadequate plans is not at
3 all clear. And I think, since we deal in this rule with
4 the formality of a concurred-in plan, why it is worth the
5 note, but may not. That's fine with me. Okay.

6 I was about to see if you had earlier comments,
7 Dick, and then we are all up through the middle of page 15
8 or something like that.

9 COMMISSIONER KENNEDY: Counsel's going to take
10 his hand at some reworking?

11 CHAIRMAN HENDRIE: Counsel will have to try to
12 repair this and come around and we will see whether we meet
13 and discuss. I want to talk to you about the schedule in
14 a minute anyway, and we can see what the availabilities are.

15 Onward. Let's see, I guess I don't believe I
16 have anything else to complain about in the amended version.

17 Anybody, before we get to the end? Peter has one
18 at the end.

19 Peter, go ahead.

20 COMMISSIONER BRADFORD: I just need some
21 explanation of how to read the handwritten change on page 34.
22 Is it now Option A or Option ---

23 CHAIRMAN HENDRIE: You have to go over into that
24 squiggle on the left there, Peter, and -- Haven't you been
25 supplied a code key?

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1 COMMISSIONER BRADFORD: It broke down to this
2 one. I can't figure out the relationship between 180 days
3 and January 1, 1981.

4 COMMISSIONER AHEARNE: That's a good point. Neither
5 can I. I'm afraid it is probably someone trying to be
6 responsive to me, but in the end, I ---

7 CHAIRMAN HENDRIE: You are the problem.
8 Anybody understand it? Mark?

9 COMMISSIONER BRADFORD: At one point, we agreed ---

10 MR. CHOPKO: What page are you on?

11 COMMISSIONER AHEARNE: It is the last page where
12 it said in the earlier version -- The Friday night version
13 it said -- it is within the middle of Section V. It said:
14 "Within Option A 60 days or, Option B 180 days."

15 The new version says: "Within 60 days or 180
16 days after January 1, 1981."

17 COMMISSIONER KENNEDY: It is either 60 days or
18 180 days after January, 1981.

19 MR. CHOPKO: The reason, it used to say: "... the
20 effective date of the amendment." It was changed to
21 "January 1, 1981," because Appendix E does not become
22 a requirement for licensees under the proposed regulations,
23 until January 1, 1981. The practical import of not changing
24 that language would mean that you would, in effect, be trying
25 to stick something on a licensee, under Appendix E, that the

1 regulations would not require him to do until some later time.

2 COMMISSIONER AHEARNE: But Mark, you are saying
3 that Appendix E doesn't become effective until ---

4 MR. CHOPKO: January 1, 1981. It is 50.54(b) in
5 the markup.

6 MR. BICKWIT: It becomes effective when everything
7 else becomes effective too.

8 MR. CHOPKO: Yes, when all of the other regulations---

9 MR. BICKWIT: So why don't we just go back to
10 effective date of this amendment.

11 MR. CHOPKO: If you adopt the 60 days of your
12 final rule, it has no legal effect until whenever the
13 effective date is.

14 COMMISSIONER AHEARNE: I see. The amendment may
15 be in effect ---

16 MR. CHOPKO: At a time after the -- say 90 days
17 after.

18 COMMISSIONER AHEARNE: You are trying to separate ---

19 MR. CHOPKO: I'm trying to make sure that you
20 are not asking someone to do something in Appendix E that
21 the regulations and other requirements of the law would not
22 have them do until a later date.

23 MR. BICKWIT: I see.

24 MR. CHOPKO: Unless you are willing to drop those
25 alternatives and just pick a date here, say within 90 days

1 after after the effective date, or within 30 days after
2 January 1, 1981, to allow a reasonable time to comply with it.

3 CHAIRMAN HENDRIE: Let's see, the 60 days and
4 180 days are?

5 COMMISSIONER AHEARNE: For implementing procedures
6 for the emergency plan.

7 MR. CHOPKO: They both relate back to the top of
8 page 23. The little (v) at the top.

9 (Pause while the Commission reads the text.)

10 COMMISSIONER AHEARNE: The words: "... this amend-
11 ment..." Mark, refer to ---

12 MR. BICKWIT: The rule, the whole rule.

13 MR. CHOPKO: The package.

14 COMMISSIONER AHEARNE: The whole rule, which ---

15 MR. CHOPKO: Encompasses everything.

16 COMMISSIONER AHEARNE: Now, the emergency plans
17 have to be in effect no later than January 1, 1981?

18 MR. CHOPKO: That's true.

19 COMMISSIONER AHEARNE: Could be earlier?

20 MR. BICKWIT: Could be earlier.

21 MR. CHOPKO: That's correct.

22 COMMISSIONER AHEARNE: Now, effective date of
23 the amendment is, you say, January 1, 1981?

24 MR. BICKWIT: No, it may become effective ---

25 COMMISSIONER AHEARNE: Earlier?

1 MR. BICKWIT: Earlier, like a couple of months.

2 COMMISSIONER AHEARNE: But then, say again the
3 problem with leaving in the language after the effective
4 date of this amendment?

5 MR. CHOPKO: Suppose the -- The practical problem
6 with it is suppose the final rules are published in
7 September, then you are asking the licensee to take some
8 actions in 60 days after the final rules are published or
9 become effective in September, then you are asking the
10 licensee, in Appendix E to do something in November that
11 may be, under the version of the regulation that you adopt,
12 you would not have to do until January. So what you are
13 trying to do is force him to do something ahead of time.

14 COMMISSIONER BRADFORD: But isn't the time to cure
15 that when we adopt the final regulations, that is, to make
16 sure then that we choose consistent dates in each of these
17 paragraphs.

18 MR. CHOPKO: Yes, unless the other alternative
19 is to not publish alternatives and just say **within** 60 days
20 of the effective date of this amendment, whatever that is,
21 whether it is in January or ---

22 COMMISSIONER KENNEDY: No, no. Wait minute.

23 You said within 60 days of the effective -- Oh,
24 within 60 days of the effective date, then you don't have
25 the problem. That's right.

1 MR. CHOPKO: Whatever that date is. At least I
2 think that's the way the initial one ---

3 COMMISSIONER BRADFORD: I would go back to that,
4 I think, and then if that turns out in the final version
5 to cause difficulty, we can just make sure that the dates
6 are harmonious throughout.

7 MR. CHOPKO: Alternative B came from you,
8 Commissioner Ahearne. I don't know what your feelings are
9 on that.

10 COMMISSIONER AHEARNE: I would like to go with
11 the: "within 60 days."

12 COMMISSIONER GILINSKY: I have a -- Karl seems
13 to want to say something on this point.

14 MR. GOLLER: Before you leave that paragraph,
15 people have been using the word "alternative" now. I would
16 like agreement from the Commission that that should be
17 "alternative" rather than "option", to make it consistent
18 with the terminology throughout.

19 Also, at the beginning of that paragraph, Roman
20 Numeral V, the first word should say: "No less than 180
21 days..." rather than "within". The intent was to have
22 it at least 180 days prior to that.

23 Additionally, I have noticed certain other
24 areas in this document as it is now prepared, where the
25 language is not as precise as it should be. For example, ---

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1 COMMISSIONER KENNEDY: I'm glad you noticed that.

2 MR. GOLLER: We would require a plant to do
3 something. I would hope that we would have that prerogative
4 from the Commission to straighten out these words. If it
5 is worded correctly then a licensee is asked to do something
6 with the plant, because there may be some other areas of
7 this nature.

8 Lastly, I would like to make a personal plea, if
9 you will, that the Commission has actually considered each
10 and every one of these alternatives as they are now set
11 forth, and that you wish each of these to be identified
12 as such.

13 For example, there are several steps of alternatives
14 where the only distinction is either within 180 days for
15 the effective time of this rule, or the alternative being
16 180 days or January 1, whichever comes sooner. My
17 question is ---

18 COMMISSIONER AHEARNE: I think the two alternatives
19 are January 1, is one alternative, and the other alternative
20 is within 180 days or January 1, whichever.

21 MR. GOLLER: Right. That has been corrected.

22 Does the Commission actually want to indicate
23 those two alternatives in this proposed rule if it is going
24 out for comment at this time. I think it is obvious that
25 these alternatives very much complicate this presentation to

1 the public, and if somehow the Commission would reduce some
2 of these alternatives, I think it would improve this
3 presentation to the public.

4 CHAIRMAN HENDRIE: What is the sense of the
5 Commission on 180 days from effective, versus January 1, 1981?

6 COMMISSIONER AHEARNE: Well, it is my alternative
7 is the one that I think that Karl finds a problem with, and
8 that is 180 days or January 1, whichever is sooner.

9 CHAIRMAN HENDRIE: Okay, that's the one -- Okay,
10 that versus January 1.

11 MR. GOLLER: No, sir. I have no problem with
12 either one. I would like to make the suggestion that the
13 Commission would agree on one or the other, recognizing that
14 this is a proposed rule and it may well be changed to
15 something entirely different later on, but why single out
16 this one detail of a very complicated proposed rule when
17 you could indicate alternatives on a great many other
18 points.

19 COMMISSIONER AHEARNE: Yes.

20 COMMISSIONER KENNEDY: I wish you hadn't suggested
21 that.

22 COMMISSIONER AHEARNE: In the latter.

23 CHAIRMAN HENDRIE: It is fair to count you --
24 I'll call it the 180 day option, understanding it means
25 180 days from effective or January 1, whichever comes sooner.

1 COMMISSIONER AHEARNE: Right.

2 CHAIRMAN HENDRIE: Okay, I count you that way.
3 I'll count myself to make it clear for January 1.
4 Dick?

5 COMMISSIONER KENNEDY: January 1, that's what we
6 had in the first place.

7 COMMISSIONER BRADFORD: I'm with John.

8 COMMISSIONER GILINSKY: Why don't we just make it
9 180 days, period, not whichever comes sooner. That's the
10 kind of ---

11 No, no.

12 (Simultaneous discussion.)

13 CHAIRMAN HENDRIE: 2, 2, 1.

14 COMMISSIONER GILINSKY: No, no. I'm suggesting
15 that they modify their proposal. This is the kind of change
16 one could easily make at the end, I think, whichever comes
17 sooner or whatever. I'm proposing to make it 180 days,
18 period, which was John's original proposal, and just modify
19 that as necessary at the final rule stage.

20 COMMISSIONER AHEARNE: The difficulty, clearly with
21 that is that by the progress of the proceeding could well
22 be that 180 days may extent well ---

23 COMMISSIONER GILINSKY: So at the final rule you
24 may change it to January 1, or ---

25 COMMISSIONER AHEARNE: Our problem then, suddenly

1 changing the rule to make it leap ahead in time, without
2 having originally pointed that out.

3 COMMISSIONER GILINSKY: All right, I will go
4 along with that proposal whichever comes sooner.

5 CHAIRMAN HENDRIE: I must say, although I'm on
6 the losing side of that count, that I think the benefits
7 from simplification of what we publish here are substantial.
8 What do you think, Dick?

9 COMMISSIONER KENNEDY: Oh, I agree. But then I
10 agreed with that last week.

11 CHAIRMAN HENDRIE: Let us, in addition to your
12 fixing the section on both alternatives, et cetera, page 13,
13 let us settle down on 180 days from the effective date, or
14 January 1, 1981 whichever comes sooner and eliminate
15 alternatives wherever that is the sole difference between
16 them, Okay?

17 How many does that take out, Karl?

18 MR. GOLLER: This is the consideration of plants
19 due to receive an operating license, and what exactly are
20 the differences of the alternatives as presented between
21 those. I personally don't see a great deal of difference
22 between the two alternatives as now presented in this paper.

23 COMMISSIONER AHEARNE: If those who are in
24 support of the first version are willing to allow the writing
25 of the second version to stand, I would have no problem.

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1 But I think there is a difference.

2 COMMISSIONER BRADFORD: Before we move on from
3 Karl's last bit about -- He actually made three points,
4 one of which we have now decided, the other, of which I'm
5 having no difficulty with, that business of no less than
6 180 days.

7 On the third one, the business of Option A versus
8 Alternative A, obviously the schematics doesn't matter, but
9 I guess I wasn't clear whether we still had, on that last
10 page, an Option A or an Option B, or whether we just agree
11 on 60 days.

12 COMMISSIONER KENNEDY: We scratched it, I thought.

13 COMMISSIONER BRADFORD: That's right. So it is
14 simply now, 60 days. Okay. So the point about alternative
15 just doesn't matter.

16 MR. GOLLER: Let me just clarify that then,
17 because I really didn't get -- I assume that we would change ---

18 COMMISSIONER AHEARNE: Well, it depends on what
19 the changes are, clearly, because we have gone through
20 agonizing hours, as your guys know very well ---

21 MR. GOLLER: For example, page 2.

22 COMMISSIONER AHEARNE: I'm sure you can find
23 a few examples, and where clearly you have to write it in
24 the clear language. The plant doesn't do things, the
25 licensee does things, clearly. But as many of us have seen

1 in a number of these negotiations in the sessions, what
2 is one person's clarifications to someone else, ends up
3 being a significant change.

4 MR. GOLLER: Well, perhaps we then identify these,
5 and go through them.

6 On page 2 ---

7 MR. BICKWIT: Wouldn't it be possible where we
8 see something that obviously would not be a significant
9 change for any Commissioners, then we will make it correct.

10 COMMISSIONER AHEARNE: Of course.

11 COMMISSIONER GILINSKY: It seems to me you have
12 to allow the General Counsel a certain freedom.

13 COMMISSIONER AHEARNE: Yes.

14 COMMISSIONER KENNEDY: What is your point, Karl?

15 Let's take an example and be sure that we know
16 what we are talking about, because believe me, I think this
17 paper has had more attention devoted to it than it can
18 possibly stand. It is now being weighed down by the weight
19 of the ink being written all over it in repetitive revisions.
20 It seems to me that if we can clear this up once and for all
21 and get it out of here, that would at least give the public
22 some opportunity to comment. At the rate we are going now,
23 the public may be in a new generation before they get this,
24 you know, they may have an entirely different view of things.

25 So maybe you can give us an example. You were on

1 page 2, Karl.

2 MR. GOLLER: Page two ---

3 COMMISSIONER KENNEDY: Let's be sure we know what
4 we are talking about, for once.

5 MR. GOLLER: Page 2, the sentence just above number
6 3 at the bottom of the page. "In cases of serious deficiencies,
7 the order to show cause will be made immediately effective
8 and the plant would be required to shut down."

9 I would propose we change that to, "the licensee
10 would be required to shut down the plant."

11 COMMISSIONER KENNEDY: Splendid.

12 MR. GOLLER: Similarly, on the next page there is
13 another change in the second paragraph says essentially
14 the same thing.

15 COMMISSIONER KENNEDY: By all means.

16 CHAIRMAN HENDRIE: I recommend that unless you
17 have convincing evidence that the plants have been
18 sufficiently automated, this language says you fix them, and
19 it seems to me that no one will stay the effort. Work with
20 the General Counsel. Somewhere between you you have to
21 produce a version of this which is readable, and hopefully
22 without handwritten edits on it. At least, if I were the
23 editor of the Federal Register, you would have to produce ---

24 MR. HANRAHAN: I don't think the public is going
25 to misconstrue that somebody, like the licensee, is going to

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1 shut down the plant.

2 COMMISSIONER KENNEDY: Karl, you had another
3 point, however.

4 MR. GOLLER: The other one was whether we could
5 possibly reduce the two alternatives on Item 1, relative
6 to ---

7 COMMISSIONER KENNEDY: Page where?

8 MR. GOLLER: Very top of page 2, and toward the
9 middle of page 3. The two alternatives relative to the
10 initial licensing of -- for operation of the plant, whether
11 there is really a distinction indicated there.

12 CHAIRMAN HENDRIE: I'll bet you a cookie that
13 people will find a distinction there.

14 MR. GOLLER: That's part of the problem.

15 CHAIRMAN HENDRIE: I've got a notion that that
16 one may be the subject of extended discussion.

17 COMMISSIONER KENNEDY: One thought would be that
18 those who distinguish might wish to indicate what it was
19 they were distinguishing. That would help you?

20 MR. GOLLER: Yes, it certainly would.

21 COMMISSIONER KENNEDY: Perhaps we could go to that
22 notion.

23 CHAIRMAN HENDRIE: All right.

24 MR. BICKWIT: I don't think there is a
25 distinction.

1 CHAIRMAN HENDRIE: That's your point, that the
2 criteria are the same. The differences are procedural.

3 MR. BICKWIT: In this instance the procedures
4 would be the same.

5 CHAIRMAN HENDRIE: And in this instance the
6 procedures would be the same.

7 John, you are the distinction ---

8 COMMISSIONER AHEARNE: I would agree there is
9 no distinction, if those who are in favor of the first
10 alternative had no difficulty with taking the language that
11 is written on page 3 and using that for number one, in which
12 case I could be confident that there is no distinction.

13 COMMISSIONER KENNEDY: What is the distinction that
14 you see now?

15 COMMISSIONER AHEARNE: Well, since that first
16 alternative has been -- I haven't really been concentrating
17 that much on the first alternative. I have been trying to
18 hold -- I have turned to my proposed, and so I'm sure that
19 that tracks, still tracks with what I had in mind, and if
20 people say there is no distinction, and they were the
21 proponents originally of a different version, then I would
22 be delighted if they say there is no distinction and they
23 can accept that language, then we can use it for both.

24 COMMISSIONER BRADFORD: That seems reasonable to
25 me.

1 MR. BICKWIT: If you want an opinion from this
2 end, that seems reasonable.

3 COMMISSIONER KENNEDY: Which paragraphs are you
4 suggesting?

5 MR. BICKWIT: The two paragraphs one. You are
6 suggesting ---

7 MR. GOLLER: Page 2 and 3.

8 MR. BICKWIT: Yes.

9 COMMISSIONER KENNEDY: The two paragraphs one?

10 MR. BICKWIT: Yes. The two paragraphs numbered one.

11 MR. GOLLER: I think they are certainly extremely
12 close, in my opinion of the one on page 3, it comes closer
13 to setting forward what I think was originally intended and
14 I think it is still intended.

15 COMMISSIONER AHEARNE: Fine.

16 COMMISSIONER KENNEDY: What is the effect of calling
17 for an exemption?

18 COMMISSIONER GILINSKY: Well, it makes it more
19 formidable to get a relaxation from standards.

20 COMMISSIONER KENNEDY: Then there is a difference.
21 Is that right?

22 COMMISSIONER BRADFORD: Well, I would have said
23 that what, in fact would happen under one would be an
24 exemption, but ---

25 COMMISSIONER KENNEDY: Well, that's not what Victor

1 is saying.

2 COMMISSIONER GELINEY: well, I didn't like this,
3 but you are asking me how I look at the two, and by putting
4 in the word "exemption" then it makes the requirement sound
5 more formidable.

6 MR. GOLLER: Well, I think since the Commission
7 is simply granting an operating license at that point, would
8 in itself inherently would involve in an exemption, would
9 declare it in a sense a rule. Now whether a separate
10 piece of paper is necessary that is labeled exemption, I
11 refer to the General Counsel, but I would think ---

12 CHAIRMAN HENDRIE: I would read it to be required.
13 Furthermore, he doesn't get a chance to have a
14 hearing on it.

15 COMMISSIONER KENNEDY: Does he or doesn't he?

16 CHAIRMAN HENDRIE: No.

17 MR. BICKWIT: You are in an OL situation. The
18 licensee has got the burden of proof to get his license and
19 he either has to come in and say I've got a concurred-in
20 plan or he has to demonstrate why he needn't have one.
21 And whether you call that an exemption or not, it amounts
22 to the same thing. The issue is contested and we will have
23 a hearing on it.

24 COMMISSIONER KENNEDY: In a formal, legal,
25 procedural sense, does the introduction of the notion of the

1 quote, exemption, unquote add something procedurally or
2 does it not?

3 MR. BICKWIT: I do not believe it does in this
4 instance.

5 COMMISSIONER KENNEDY: I think we need to know
6 that categorically, whether it does or not.

7 CHAIRMAN HENDRIE: Well, you are going to have to
8 grant an exemption, right?

9 It is going to have to be an order of the Commission
10 that says he is exempt from this particular regulation.

11 MR. BICKWIT: I don't read it that way. I read it
12 that the licensee is making certain points, and if he needs
13 to establish first, certain propositions for his case to
14 be accepted, that he ought to have an operating license.
15 And one of those points may be ---

16 CHAIRMAN HENDRIE: These are operating plants we
17 are talking about?

18 COMMISSIONER GILINSKY: No, no.

19 COMMISSIONER KENNEDY: No, no. These are ones
20 coming up for OL issuance.

21 MR. HANRAHAN: But the second alternative does
22 say, no operating license will be issued unless NRC finds,
23 in other words, implied -- As an interested reader of this,
24 since there are two alternatives, I would want to see what
25 the distinction was between them, and I see words like "finds

1 and exemption," that would imply to me that that has to be
2 the distinction and would require some finding by the
3 Commission.

4 So it would seem -- the two -- alternative to
5 me, just as a casual reader, has a little tougher standards
6 applied to it and requires a positive action. That would
7 be the reading, now, legally, I'm sure the General Counsel
8 is correct.

9 COMMISSIONER AHEARNE: That would be the intent
10 of the drafter.

11 COMMISSIONER KENNEDY: And do those positive
12 actions then imply the need for additional procedural
13 steps on the part of the Commission and public? Does it
14 give rights to parties to the proceedings?

15 MR. BICKWIT: I do not read it that way.

16 COMMISSIONER AHEARNE: I don't think so, but I
17 think it is in the operating license ---

18 CHAIRMAN HENDRIE: But the Commission does have
19 to issue an order exempting a given plant from these
20 regulations.

21 MR. BICKWIT: If you want to read it, you can read
22 it either way. I don't read it that way, but if you want
23 to read it that way, then there is a difference between
24 the two.

25 COMMISSIONER KENNEDY: Well, the author said that's

1 what he intended.

2 COMMISSIONER AHEARNE: It was intended to make
3 the Commission make a positive conclusion.

4 MR. BICKWIT: Oh, a positive conclusion. If the
5 question is, do they have to issue an order, I don't read
6 it as saying that.

7 COMMISSIONER AHEARNE: Issuing an order is more
8 specific, but I did intend the Commission to have to make
9 a positive conclusion.

10 CHAIRMAN HENDRIE: How would you express the
11 conclusion? A piece of paper that said, "We the Commission
12 find as follows." That's what I mean by an order.

13 COMMISSIONER AHEARNE: But the plant may have an
14 operating license, and this operating ---

15 CHAIRMAN HENDRIE: And that the operating plants
16 may continue to operate.

17 COMMISSIONER AHEARNE: No, no, this is ---

18 COMMISSIONER KENNEDY: And the Commission itself
19 must do this ---

20 (Simultaneous voices)

21 CHAIRMAN HENDRIE: Wait, wait.

22 COMMISSIONER KENNEDY: -- the Commission itself is
23 not involved in the OL proceeding itself.

24 MR. BICKWIT: No, I don't read this to say the
25 Commission itself must do it.

1 MR. GRIMES: If I may, I think we would be
2 better off looking at the regulation itself instead of the
3 words that describe the regulation, and those are found on
4 pages 18 and 19.

5 The section we are talking is Section 50.47 which
6 applies to new operating licenses. In the middle of the
7 page, on page 18, it just indicates that the applicant would
8 have an opportunity to demonstrate to the satisfaction of the
9 Commission, which might imply a safety evaluation report type
10 of thing, in my mind, rather than a formal exemption.

11 Alternative B on the next page, specifically says
12 you need an exemption. In addition, there is another, the
13 last sentence in Alternative B does not appear in Alternative
14 A, which says -- hinges on the NRC finding on appropriate
15 protective actions, including evacuation when necessary.
16 So those are the principal differences.

17 COMMISSIONER KENNEDY: Two very important
18 differences.

19 CHAIRMAN HENDRIE: The language of the draft
20 regulation does, indeed, deal with, "... no operating
21 licenses will be issued after the effective date of the
22 rule," et cetera, et cetera.

23 But back on pages 2 and 3 where we are explaining
24 the differences between these alternatives, it talks about
25 operating plants. It says, on the one hand, if you have got

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1 a plant operating and the thing becomes effective, and
2 you haven't got a concurred-in plan, you can consider the
3 circumstances, and if you do decide to shut him down, why
4 you issue a show cause order and he gets a chance to
5 complain about it, whereas the other option is you shut him
6 down unless you issue an exemption.

7 MR. BICKWIT: I understand.

8 There are big differences where you are talking
9 about paragraphs 2 and 3 of the two alternatives. Karl is
10 mentioning only paragraphs 1 of the two alternatives. The
11 advice I have given with respect to paragraphs 1 of the two
12 alternatives is there isn't any difference.

13 COMMISSIONER KENNEDY: The options when one goes
14 to the regulation, though, rightly points out are very
15 different indeed.

16 MR. MALSCH: The only difference there really is
17 the addition of the second sentence in Alternative B
18 which says that no such operating license will be issued
19 unless the NRC finds that appropriate protective actions,
20 including evacuation when necessary, can be taken for
21 any reasonably anticipated population within the plume
22 exposure. That is different from A, but ---

23 MR. BICKWIT: Not in this respect.

24 MR. HANRAHAN: You find two differences, I think.
25 There are two alternatives and so one looks for

1 the differences and it is an exemption in finding the
2 second one which don't exist in the first one. There has
3 to -- It has to give the read of the opinion that that's
4 what is important, something is going to happen.

5 MR. MALSCH: But the finding is the same in both.
6 The only difference is in one it is called "also an
7 exemption."

8 COMMISSIONER BRADFORD: The point really though, of
9 what you and Brian have said then, Marty, is that there does
10 need to perhaps be two paragraphs ones, but they are focused
11 on the wrong thing at the moment. One of them should
12 reflect that second sentence in Alternative B ---

13 MR. MALSCH: That's right.

14 COMMISSIONER BRADFORD: -- and one could condense
15 these two paragraphs into one but you would still have to
16 have something talking about options.

17 MR. MALSCH: That's right, in the second sentence,
18 but the first sentences, I think, are operationally ---

19 COMMISSIONER AHEARNE: Try again, Karl.

20 MR. GOLLER: What I think is more important now,
21 is the Commission as a whole or individually, are they
22 still considering both of these alternatives. Do they
23 prefer one over the other as a group. If it is the latter,
24 of course, then the other is just another alternative/option,
25 if you will, that anybody can come up with when it is moved

1 about as a proposed rule.

2 COMMISSIONER GILINSKY: Well, we could collapse
3 the whole paper that way. I mean, that's just one course,
4 just to have one alternative throughout.

5 MR. GOLLER: Well, the question I'm asking is there
6 really -- are there really two alternatives here that the
7 Commission itself is considering?

8 CHAIRMAN HENDRIE: Yes, I think there are.

9 MR. GOLLER: On Item 1. There clearly are on
10 Items 2 and 3 where you are talking about operating plants,
11 no question that there is a difference. But on Item 1
12 where you are talking about plants that haven't been licensed
13 yet and apparently just the procedural aspects of how you
14 might issue their license is a lot less clear to me than
15 there is any difference here.

16 COMMISSIONER AHEARNE: Well, that last sentence on
17 page 19 certainly is different.

18 CHAIRMAN HENDRIE: Yes, I think there are differences,
19 and the reason there are alternatives in the rule going out
20 are to, in effect, postpone the Commission's resolution to
21 see where the weight of the opinion finally lies. In the
22 interest of getting the damn thing out for comment, to postpone
23 that until we get comment and then we will have to come back
24 to it. But I think, in fact, there is a difference. I
25 prefer Alternate A -- the Alternate A version.

1 COMMISSIONER BRADFORD: Though John's point in
2 proposing that sentence to Alternate B before is that it
3 codified what we had all, in effect, agreed to, to Mr.
4 Fithian (phonetic).

5 COMMISSIONER AHEARNE: Well, the four of us who
6 were there.

7 COMMISSIONER BRADFORD: Yes.

8 CHAIRMAN HENDRIE: Well, you codified it in the
9 way in which John chose to write it. I didn't also agree
10 to Mr. Fithian, that that was part of my agreement with the
11 principle. I think the language under Alternative A is
12 the framework from a regulatory standpoint, for my use.

13 COMMISSIONER BRADFORD: Let's, by all means, have
14 both go out then, but maybe rewrite, at least the second
15 paragraph 1 to reflect the fact that this sentence is
16 different.

17 COMMISSIONER AHEARNE: Well, I would suggest
18 in the rewriting of paragraph 1, the adding of a sentence
19 rather than rewriting the paragraph. I think the paragraph
20 is a fairly accurate description.

21 COMMISSIONER GILINSKY: Len, I want to ask you
22 something about the burden of proof in operating licenses.

23 You said the burden of proof is on the licensee.
24 I'm just scanning through our regulations here and as I do
25 when our discussions drag on. It says: "Upon completion of

1 construction or alteration of the facility, in compliance
2 with the terms and conditions of the construction permit
3 and subject to any necessary testing of the facility for
4 health or for safety purposes, the Commission will, in the
5 absence of good cause shown to the contrary, issue a license
6 of the class..." et cetera, et cetera.

7 What does that mean?

8 MR. MALSCH: That's just reading from the
9 statute. There is another section that deals with the
10 burden of proof, in Part 2, I think.

11 COMMISSIONER GILINSKY: And makes clear that the
12 burden of proof is on the licensee?

13 MR. MALSCH: Yes, sir.

14 MR. BICKWIT: Even if it doesn't, my understanding
15 of the administrative law principles is that the proponent
16 of the rule or the order for action has the burden of
17 proof. But even if that is not the case with respect to
18 operating licenses, generally under paragraph one of
19 Alternative A, it is said that the licensee shall demonstrate
20 this. So that would certainly make it clear in this case,
21 that the burden of proof is on the licensee.

22 COMMISSIONER GILINSKY: I have a point on page 10
23 if it is permissible to return to that.

24 CHAIRMAN HENDRIE: Why not.

25 COMMISSIONER GILINSKY: It is on page 10, but I

1 wanted to read something from page 11.

2 At the top of the page we say something about
3 viewing emergency planning as equivalent to, rather than
4 as secondary to, siting them, and design and public
5 protection and so on. Also, on page 10 that says: "A
6 conclusion the Commission draws from this is that in carrying
7 out its statutory mandate to protect the public health
8 and safety, the Commission must be in a position to know
9 that off-site governmental plans have been reviewed and
10 found adequate."

11 This text then goes on to say: "The Commission
12 finds that the public can be best protected within the
13 framework of the Atomic Energy Act if additional
14 attention is given to emergency response planning."

15 That last sentence seems to me to have a little
16 of the flavor of guilding the lilly, and I would say: "The
17 Commission finds that the public can only be protected,
18 within the framework of the Atomic Energy Act if additional
19 attention is given to emergency response planning."

20 It seems to me that would be consistent with
21 viewing it as equivalent to our siting and design reviews.

22 COMMISSIONER BRADFORD: That's all right with me.

23 COMMISSIONER KENNEDY: Where are you going to
24 put the "only"?

25 COMMISSIONER GILINSKY: Between "can and be" and

1 strike "best".

2 COMMISSIONER AHEARNE: "... it can only be..."

3 COMMISSIONER GILINSKY: If we speak of: "... must
4 be in a position to know..." et cetera, and putting emergency
5 planning on the same basis as siting and design reviews

6 MS. ARON: How about putting it after "if".

7 COMMISSIONER GILINSKY: Yes, that's fine.

8 COMMISSIONER KENNEDY: But still drop the word "best"?

9 COMMISSIONER GILINSKY: Yes.

10 COMMISSIONER KENNEDY: That's fine.

11 COMMISSIONER AHEARNE: Fine.

12 CHAIRMAN HENDRIE: Other comments. Have I hit
13 a moment of silence.

14 MR. GRIMES: I have a question on that as to the
15 legal implications for the current licensee, since the
16 public can only be protected if we give additional attention
17 and we have not yet given the additional attention, are they
18 now unprotected.

19 COMMISSIONER AHEARNE: Sure we have.

20 COMMISSIONER GILINSKY: But I thought we went
21 over this. This is the problem we face every time we
22 impose a new requirement, and these, in many cases, simply
23 cannot be imposed immediately and one understands that.

24 COMMISSIONER AHEARNE: And your teams are already
25 out. Already giving that additional attention.

1 CHAIRMAN HENDRIE: Not much action has been
2 taken.

3 What does the Commission propose to do with
4 tomorrow's petition which says, on the basis of this
5 document shut them all down. Are you supposed to grant it?

6 MR. BICKWIT: We have dealt with that question and
7 our view was -- We had proposed the language that would shield
8 us from that, however, the Commission instructed us to take
9 such language out and we advised that we did not believe
10 that we would loose litigations because that language came
11 out.

12 COMMISSIONER GILINSKY: It seems to me, we are
13 in effect, finding that -- we are finding that additional
14 attention to emergency planning is necessary and required,
15 and the public can only be protected if that is obtained, but
16 that it is tolerable to have this ---

17 CHAIRMAN HENDRIE: Good. If you will say that ---

18 COMMISSIONER GILINSKY: Sure. Absolutely.

19 CHAIRMAN HENDRIE: -- right here. Okay.

20 COMMISSIONER GILINSKY: Sure. But we are saying
21 it, in effect, and if you want to say it explicitly, that's
22 fine.

23 CHAIRMAN HENDRIE: You know, what I can't stand
24 is to have the "only" in, but the rest of it is all just
25 implicit and not understood, okay. If you want to put the

1 whole thing in, I'm with you all the way.

2 COMMISSIONER GILINSKY: Fine.

3 COMMISSIONER KENNEDY: Why don't you just write
4 the sentence down, Mark.

5 CHAIRMAN HENDRIE: Otherwise, as Brian points
6 out, you are going to have to deal with the petitions
7 tomorrow, and you say, well, we will go over those, but ---

8 COMMISSIONER GILINSKY: Well, it is the same
9 problem you had with the emergency core cooling system
10 or anything else, and we are agreeing that it takes a
11 certain amount of time to do this, and we are agreeing that
12 that's an acceptable arrangement.

13 CHAIRMAN HENDRIE: That's acceptable.

14 I think we ought to say that, and I think, in fact,
15 I expect as Len says, he can win the court cases, if the
16 petitions are denied, why I think it is useful for the
17 Commission to make that statement explicitly. You are right,
18 it is there every time you do a regulation change, we face it
19 every time.

20 COMMISSIONER BRADFORD: I would put the finds in
21 the past tense, too. By the time we actually make this
22 rule final, a lot of the actions that are going to be
23 taken to the satisfaction of that sentence, will be in the
24 past. And if next April we make the finding that additional
25 attention is necessary we will, in effect, be saying additional

1 to what will have been done in the preceding year.

2 CHAIRMAN HENDRIE: Somewhere I lost enough of
3 the track, Peter, could you come back to me with the change?

4 COMMISSIONER BRADFORD: Okay, I would change
5 "finds" to "has found".

6 COMMISSIONER AHEARNE: Vick, do you have a sentence
7 you could add on the tolerable?

8 COMMISSIONER GILINSKY: Yes, I prefer the word
9 "tolerable".

10 COMMISSIONER AHEARNE: Yes, I know, but do you
11 have a sentence you could ---

12 COMMISSIONER BRADFORD: What goes around it?

13 COMMISSIONER KENNEDY: Just stamp it at the top
14 of the page.

15 COMMISSIONER GILINSKY: I'll give you a sentence
16 after the meeting.

17 CHAIRMAN HENDRIE: "Tolerable" or "acceptable" is
18 another standard ---

19 COMMISSIONER GILINSKY: Well, we understand it would
20 take a certain amount of time to do this. That doesn't
21 mean an indefinite period, in fact, it means an indefinite
22 period is not acceptable, and I just ---

23 MR. CHOPKO: I think there was a sentence in an
24 earlier draft that said, "operation while we upgrade our
25 plans" -- "... protection of the public while we upgrade

1 our plans is still deemably acceptable."

2 COMMISSIONER GILINSKY: Over the times that are
3 described in this or foreseen in this rule.

4 MR. CHOPKO: I think we had something like that
5 in our two drafts.

6 COMMISSIONER BRADFORD: I would go back to that
7 thought, but I think I would try to tighten it up a little.

8 CHAIRMAN HENDRIE: Okay. Well, go and strive
9 further, Counsel's office, Karl, both. Are you getting your
10 thumb in this too, Ed?

11 MR. HANRAHAN: Yes.

12 CHAIRMAN HENDRIE: I would expect so.

13 (Whereupon, the Commission concluded this meeting
14 at 3:15 p.m. and moved on to meeting schedule matters.)

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as modified

MASTER

H St.

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

EMERGENCY PLANNING

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Proposed Rule

SUMMARY: The Nuclear Regulatory Commission, after considering the public record available concerning licensee, State and local government emergency preparedness, and the need to enhance protection of the public health and safety, is proposing to amend its regulations to provide an interim upgrade of NRC emergency planning regulations. In a few areas of the proposed amendments, the Commission has identified two alternatives which it is considering. In each instance both alternatives are presented in the following summary of the proposed changes and in the specific changes presented later in this notice. The final rule will not necessarily incorporate all of the first alternatives or all of the second alternatives.

That is, in some instances the first alternative may be adopted and in others, the second ~~or additional~~ alternatives may be adopted. *Further alternatives may be adopted as a result of consideration of public comments.*

In one alternative, the proposed change would not automatically require suspension of operations for ~~each~~ *lack* of concurrence in ~~relevant~~ *appropriate* State and local government emergency response plans. It would:

on the date specified in the rule, even if the Commission by that date has not yet determined whether the reactor should continue to operate. 1596 054

1. ✓ Require NRC concurrence in the appropriate State and local government emergency response plans prior to operating license issuance, unless the applicant can demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the nuclear power plant in question ^{or} that alternative compensating actions have been or will be taken ^{promptly,} or that there are other compelling reasons ^{for} ~~to~~ license issuance.

2. ✓ If appropriate State and local emergency response plans have not received NRC concurrence by January 1, 1981, ^{require} the Commission ^{to} ~~will~~ determine whether to require the licensee to shut down the nuclear power reactor. If at ~~that~~ ^{that} time the Commission finds that the licensee has demonstrated that the deficiencies in the plans are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation, then the ^{licensee} ~~plant~~ may continue operations.

✓ If at this time the Commission cannot make such a finding, then the Commission will order the licensee to show cause why the ^{plant should not} ~~license to~~ ^{be shut down} ~~operate should not be suspended.~~ In cases of ^{serious} ~~serious~~ deficiencies, the order to show cause will be made immediately effective and the plant would be required to shut down.

3. ✓ If appropriate State and local emergency response plans do not warrant continued NRC concurrence and the State or locality do not correct the deficiencies within 4 months of notification ^{by the} ~~of~~ NRC ^{of} ~~concurrence~~ withdrawal, ^{if its} ~~concurr~~ ^{require} the Commission ^{to} ~~will~~ determine whether to require the licensee to shut down the nuclear power reactor. Shut ^{may} ~~down~~ ~~and~~ not be required if the

Commission finds that the licensee has demonstrated that the deficiencies
 ✓ in the plan are not significant for the plant in question, or that alterna-
 ✓ tive compensating actions have been or will be taken promptly, or that there
 are other compelling reasons for continued operation.

If at this time the Commission cannot make such a finding, then the
 Commission will order the licensee to show cause why the ~~license to~~ ^{plant}
 ✓ ~~operate~~ should not be ~~suspended~~ ^{shutdown}. In cases of ~~services~~ ^{serious} deficiencies,
 the order to show cause will be made immediately effective and the
 plant would be required to shut down.

In the other alternative the proposed rule change would automatically
 nuclear power plant
 require shutdown for lack of concurrence in ~~relevant station~~ ^{appropriate State and} local govern-
 ment emergency response plans. ~~It would:~~ ^{on the date specified in the rule unless an exemption is granted by that date.}

- ✓ 1. Require NRC concurrence in the appropriate State and local governments
 emergency response plans prior to operating license issuance. However,
 the Commission can grant an exemption from this ^{requirement} ~~condition~~ if the applicant
 can demonstrate to the satisfaction of the Commission that deficiencies in
 the plans are not significant for the plant in question, or that alternative
 compensating actions have been or will be taken promptly, or that there are
 other compelling reasons for license issuance.
2. ~~it would~~ require a licensee to shut down a nuclear power reactor ^{immediately} if
 appropriate State or local emergency response plans have not received NRC
 concurrence within 180 days of the effective date of the final amendments.

or by January 1, 1981, whichever is sooner. However, the Commission may grant an exemption from this requirement if the licensee can demonstrate to the satisfaction of the Commission that the deficiencies in the plans are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation. If there is no ^{con} concurrence, and the plant is shut down, then it must remain shut down until such an exemption is granted. *or until concurrence is obtained.*

3. ~~It would~~ require a licensee to shut down a nuclear power reactor if appropriate State or local emergency response plans do not warrant continued NRC concurrence and the State or locality does not correct the deficiencies within 4 months of notification ^{by the} NRC ~~concurrence~~ ^{of its concurrence} withdrawal. However, the Commission can grant an exemption to this requirement if the licensee can demonstrate to the satisfaction of the Commission that the deficiencies in the plan are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation. *If there is not concurrence and the plant is shut down, then it must remain shut down until such an exemption is granted. or until concurrence is regained.*

In both alternatives the proposed rule would:

4. Require that ~~the~~ emergency planning considerations be extended to "Emergency Planning Zones."
5. Require that applicants' and licensees' detailed emergency planning implementing procedures be submitted for NRC review.

[7590-01]

6. Clarify and expand 10 CFR Part 50, Appendix E, "Emergency Plans for Production and Utilization Facilities."

DATES: Comments should be submitted on or before (60 days after publication).

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed rule changes and/or the supporting value/ impact analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of the value/impact analysis and of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and at local Public Document Rooms. Single copies of the value/impact analysis, related regulatory guides, and the NRC staff analysis of the public comments received *on the Advance Notice of Proposed Rulemaking* may be obtained on request.

FOR FURTHER INFORMATION CONTACT: Mr. Michael T. Jamgochian, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone: 301-443-5966).

SUPPLEMENTARY INFORMATION: In June 1979, the Nuclear Regulatory Commission began a formal reconsideration of the role of emergency planning in assuring the continued protection of the public health and safety in areas around nuclear power facilities. The Commission had begun this reconsideration in recognition of the need for more effective emergency planning and in response to reports issued by responsible offices of government and its Congressional oversight committees.

✓ By memorandum dated July ³¹~~27~~^{1e}, 1979, the Commission requested that the NRC staff undertake expedited rulemaking on the subject of State, local, and licensee emergency response plans. The proposed rulemaking described in this notice responds to that request, and has been prepared on an expedited basis. Consequently, considerations related to the workability of the proposed rule may have been overlooked and significant impacts to NRC, applicants, licensees, and State and local governments may not have been identified. Therefore, the NRC particularly seeks comments addressed to these points and intends to hold workshops prior to preparing a final rule to (a) present the proposed rule changes to State and local governments, utilities, and other interested parties and (b) ~~obtain~~ obtain comments concerning the costs, impacts, and practicality of the proposed rule.

✓ The Nuclear Regulatory Commission is considering the adoption of amendments to its regulation, "Domestic Licensing of Production and Utilization Facilities," 10 CFR Part 50, that would require that emergency response planning considerations be extended to Emergency Planning Zones (discussed in NUREG-0396, EPA 520/1-78-016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants"). Both the Commission and EPA have formally endorsed the concepts in that EPA/NRC Report, 44 ~~Federal~~ Register 61123 (October 28, 1979). In addition, the Nuclear Regulatory Commission is considering revising 10 CFR Part 50, Appendix E, "Emergency Plans for Production and Utilization Facilities," in order to clarify, expand, and upgrade the Commission's emergency planning

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regulations.¹ Prior to the conclusion of this rulemaking proceeding, the Commission will give special attention to emergency planning matters, including the need for concurred-in plans, on a case-by-case basis in accordance with the modified adjudicatory procedures of 10 CFR Part 2, Appendix B. Under that Appendix, no new license, construction permit, or limited work authorization may^{be} issued without ~~some~~ Commission consideration of issues such as this.²

Both versions of the proposed amendments call for ~~as a condition of operating license issuance~~ State and local government emergency response plans to be submitted to and concurred in by the NRC *as a condition of operating license issuance*

Under one alternative being considered, the proposed rule would require a determination on continued operation of plants where relevant State and local emergency response plans have not received NRC concurrence. Shutdown of a reactor would not follow automatically in every case. Under the other alternative proposal, shutdown of the reactor would be required automatically

Staff

¹ Two NRC guidance documents are related to this proposed rule change. "Draft Emergency Action Level Guidelines for Nuclear Power Plants," NUREG-0610 was published for interim use and comment on September 19, 1979. It is expected that a final version of the action level guidelines, based on the public comments received, will be issued in early 1980. In addition, in early 1980 upgraded and revised acceptance criteria for evaluating emergency preparedness plans will be issued for comment and may be included in the Commission's regulations. ~~The acceptance criteria are primarily a consolidation of all criteria, including the upgraded criteria, provided to date to licensees and State and local governments. See n. 3, infra.~~

² 44 Fed. Reg. 65049 (November 9, 1979)

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where the ~~State~~^{appropriate} State and local emergency response plans have not received NRC concurrence^{within the prescribed time periods}. However, the Commission could grant an exemption to this requirement if the licensee can demonstrate to the satisfaction of the Commission that the deficiencies in the plan are not significant for the plant in question, ^{or} that alternative compensating actions have been or will be taken ^{promptly} properly or that there are other compelling reasons. If there is ^{not} concurrence^{con} and the plant is shut down, then the plant must remain shut down until such an exemption is granted ^{or until concurrence is obtained}.

The NRC presently requires that power reactor licensees and applicants plan for radiological emergencies within their plant sites and make arrangements with State and local organizations to respond to accidents that might have consequences beyond the site boundary. In this way, offsite emergency response planning has been related to the nuclear licensing process.

To aid State and local governments in the development and implementation of adequate emergency response plans, the NRC, in conjunction with several other Federal agencies, has attempted, on a cooperative and voluntary basis, to provide for training and instruction of State and local government personnel and to establish criteria to guide the preparation of emergency response plans.³ However, in the past, the NRC has not made NRC concurrence in State and local emergency response plans a condition of operation ^{of} a nuclear power plant³; the proposed rule would do so, as explained above.

³ NRC staff guidance for the preparation and evaluation of State and local emergency response plans leading to NRC concurrence is contained in NUREG 75/111, "Guide and Checklist for Development and Evaluation of State and Local Government Radiological Emergency Response Plans in Support of Fixed Nuclear Facilities" (December 1, 1974) and Supplement 1 thereto dated March 15, 1977. The adequacy of this guidance is being reevaluated by the staff and the Commission will consider conifigication of the upgraded criteria in 1980.

✓ In issuing this rule, NRC recognizes the significant responsibilities assigned to the Federal Emergency Management Agency (FEMA) by Executive Order 12148 on July 15, 1979, to coordinate the emergency planning functions of executive agencies. In view of FEMA's new role, NRC agreed on September 11, 1979, that FEMA should henceforth chair the Federal Interagency Central Coordinating Committee for Radiological Emergency Response Planning and Preparedness (FICCC). In addition, NRC and FEMA have agreed to ^{exercise} joint responsibility for concurring in State emergency response plans prior to NRC issuance of operating licenses. During the next few months NRC and FEMA will continue to reexamine intra-federal relationships and responsibilities regarding radiological emergency response planning. However, the Commission does not believe that the reexamination should serve as a basis for delay in the proposed rule change.

At several places in the proposed amendments, the Commission refers to the roles of State and local governments. Indeed the main thrust of the proposed rule is that prior concurrence in State and local emergency response plans will be a condition for licensing and operation of a nuclear power plant. The Commission recognizes that it cannot direct any governmental unit to prepare a plan, much less compel its adequacy. However, the NRC can condition a license on the existence of adequate plans.

While the State and local governments have the primary responsibility under their constitutional police powers to protect their public, the Commission, under authority granted to it by the Congress, also has an important responsibility to protect the public in matters of radiological health and safety. Accordingly, with an understanding of its limitations and with a sensitivity to

the importance of all levels of governments working together, the Commission will commit to seek and apply the necessary resources to make its part in this venture work.

Rationale for Change

The proposed rule is predicated on the Commission's considered judgment in the aftermath of the accident at Three Mile Island that safe siting and design-engineered features alone do not optimize protection of the public health and safety. Before the accident it was thought that adequate siting in accordance with existing staff guidance coupled with the defense-in-depth approach to design would be the primary public protection. Emergency planning was conceived ~~as~~ as a secondary but additional measure to be exercised in the unlikely event that an accident would happen. The Commission's perspective was severely altered by the unexpected sequence of events that occurred at Three Mile Island. The accident showed clearly that the protection provided by siting and engineered safety features must be bolstered by the ability to take protective measures during the course of an accident. The accident also showed clearly that on-site conditions and actions, even if they do not cause significant off-site radiological consequences, will affect the way the various State and local entities react to protect the ~~the~~ public from dangers, real or imagined, associated with the accident. A conclusion the Commission draws from this is that in carrying out its statutory mandate to protect the public health and safety, the Commission must be in a position to know that off-site governmental plans have been reviewed and found adequate. The Commission finds that the public can be best protected within the framework of the Atomic Energy Act if additional attention is given to emergency response planning.

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The Commission recognizes that this proposal, to view emergency planning as equivalent to, rather than as secondary to, siting and design in public protection, departs from its prior regulatory approach to emergency planning. The Commission has studied the various proposals and believes that this course is the best available choice. In reaching this determination the Commission is guided by the findings of its Emergency Planning Task Force which found the need for intensive effort by NRC over the next few years to upgrade the regulatory program in this area. The Commission has also endorsed the findings of the EPA-NRC Joint Task Force for policy development in this area. Implementation of these reports by the NRC in its staff guidance is necessary for the NRC to be as effective as possible in assisting those governmental units and those utilities responsible for execution of the plans.

The Commission acknowledges the input of over one hundred commenters to date on the proposal to adopt new regulations. The staff evaluation of these comments is incorporated by reference herein as part of the record in this rulemaking proceeding.

In addition, the Commission acknowledges the important contributions made this year by various official commenters on the state of emergency planning around nuclear facilities, whose views are included as part of the basis for these regulations. The first of these was the report of the General Accounting Office issued coincident with the TMI accident which explicitly recommended that no new nuclear power plants be permitted to operate "unless offsite emergency plans have been concurred in by the NRC," as a way to insure better emergency protection. GAO Report, EMD-78-¹¹⁰~~130~~, "Areas Around Nuclear Facilities Should Be

Better Prepared for Radiological Emergencies" (March 30, 1979). In addition, the NRC Authorization Bill for FY 1980 (S.562) would amend the Atomic Energy Act to require a concurred-in State plan as a condition of operation. The policy consideration that underlies this provision would be consistent with the Commission's views of the health and safety significance of emergency planning. One of the Commission's House Oversight Subcommittees developed a comprehensive document on the status of emergency planning which recommended that NRC, in a leadership capacity, undertake efforts to upgrade its licensees' emergency plans and State and local plans. House Report No. 96-413, "Emergency Planning Around U.S. Nuclear Power Plants," 96th Cong., 1st Sess. (August 8, 1979). The Report's recommendations were significant and its findings about the need for improved emergency preparedness lends support to the NRC's own efforts to assure that the public is protected. Finally, the President's Commission on the Accident at Three Mile Island has recently recommended approved State and local plans as a condition for resuming licensing. This Commission's Report and its supporting Staff Reports on emergency responses and preparedness are indicative of many of the problems which the NRC would address in this rule. In this regard the Commission notes that the already extensive record made on emergency planning improvements will be supplemented by the Report of its own Special Inquiry Group and other ongoing investigations, any requirements of the NRC Authorization Act, and by the public comments solicited by this proposed rule.

The proposed rule meets many of the concerns discussed in the above mentioned reports and publications. However, the Commission notes that the proposed rule is considered as an interim upgrade of NRC emergency planning regulations and, in essence, clarifies and expands areas that have been perceived

to be deficient as a result of past experiences. Because the Commission anticipates that further changes in the emergency planning regulations may be proposed as more experience is gained with implementing these revised regulations, as the various Three Mile Island investigations are concluded, and as the results become available from efforts in such areas as instrumentation and monitoring and generic studies of accident models, these proposed rules may require further modifications. Thus the proposed rule changes should be viewed as a first step in improving emergency planning.

Publication of these proposed rule changes in the Federal Register supersedes and thus eliminates the need to continue development of the proposed rule change to 10 CFR Part 50, Appendix E (43 FR 37473), published on August 23, 1978, regarding Emergency Planning considerations outside the Low Population Zone (LPZ).

The Commission is considering whether construction permits which have already been issued should be reconsidered because of the emergency planning considerations of this rule. For plants in operation, NRC teams are now meeting with licensees to upgrade licensee, State and local emergency plans and implementing procedures.

(alternative A)

It is important to note that under one alternative, the proposed rules would not automatically ~~suspend~~ suspend operations at nuclear power plants ^{at the end of} ~~either during~~ the initial conversion period, ~~during start up or during~~ any grace period ^{following notification of defects requiring loss of} ~~thereafter should a plant lose its~~ concurrence. This is not an area free from argument. This alternative reflects the view that once a determination

operating license

has been made at the ~~pre~~ stage that power is needed from a particular unit and that such a facility can be operated safely, it stands to reason that the facility cannot be simply shut down without some disruptive consequences to the people living there. Unless there is a compelling safety reason that would prohibit operation, the NRC may properly weigh these consequences in deciding whether to permit reactor operations. ~~This alternative~~ while ~~the proposal~~ ^{concurrency in emergency} is important for public health and safety, ~~this alternative~~ reflects the view ~~that~~ ^{that} the increment of risk involved in permitting operation in the absence of concurred-in plans is not undue in every case.

Therefore, under this alternative, the plant need not be shut ⁽down in a given case immediately, unless the deficiencies are sufficiently ^{serious} ~~serious~~ to warrant such action. If the deficiencies are not significant for the particular power plant ~~(e.g., state funds have already been obligated for the fiscal year)~~ or the NRC is satisfied that there is adequate protection ^{of} for the public health and safety through alternative means (e.g., ^{excellent} ~~outstanding~~ local emergency plans in conjunction with an augmented licensee response, etc.), ^{or there are other compelling reasons} no order to the licensee to show cause why the plant should not be shutdown need be issued. In any event, the staff would review a licensee's demonstration in an informal context before commencing show cause proceedings under 10 CFR 2.202.

Alternative A

The NRC contemplates that under ~~this alternative~~ initial concurrence and subsequent withdrawal, if necessary, would be noted in local newspapers. In necessary cases, formal proceedings to suspend operation ^{would} ~~will~~ be initiated by an order to show cause, pursuant to 10 CFR 2.202, which ^{would} ~~will~~ permit a hearing on that determination.

(Alternative B)

As indicated, under the other alternative proposed rule, the plant would automatically ^{be} shut down in ~~the event of~~ ^{for} lack of concurrence or concurrence withdrawal ^{on the date specified in the rule unless and until} and the licensee ~~could specifically have the burden to~~ convince the Commission that there are compelling reasons that warrant an exemption to allow continued plant operation. ^{or the concurrence is obtained} Finally, under the other alternative proposal, the NRC ~~recognize~~ ^s the public interest in this process. Public notice of any initial concurrence or withdrawal of concurrence would be made in the Federal Register and in local newspaper. Notice in the Federal Register and in local newspaper will also be provided of any required suspension of operations, any request for an exemption from this requirement, and any request that an operating license be exempt from the requirement for concurred-in plants. Public comments will be welcomed. If significant interest in meeting with the staff is expressed, the staff may hold public meetings in the vicinity of the site to receive and discuss comments and to answer questions.

Accordingly, in the discharge of its duties to assure the adequate protection of the public health and safety, the Commission has decided to issue proposed rules for public comment. The proposed changes to 10 CFR ~~§~~ 50.33, 50.47, and 50.54 apply to nuclear power reactors only. However, the proposed Appendix E to 10 CFR Part 50 applies to ~~Production and Utilization~~ Facilities in general except as noted in the proposed Appendix E. These proposals, comments, other official reports, and views expressed at the public workshops will be factored into the final rule, which the NRC now anticipates will be published in early 1980.

✓ Pursuant to the Atomic Energy Act of ¹⁹⁵⁴~~1954~~, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 and Appendix E to 10 CFR Part 50 is contemplated.

Copies of comments received on the proposed amendments may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and at local Public Document Rooms.

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Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 and Appendix E to 10 CFR Part 50 is contemplated.

Copies of comments received on the proposed amendments may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and at local Public Document Rooms.

PART 50 - DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. Paragraph (g) of Section 50.33 is revised to read as follows:

§50.33 Contents of applications; general information

* * * * *

(g) If the application is for an operating license for a nuclear power reactor, the applicant shall submit radiological emergency response plans of ~~United States~~ State and local governmental entities ^{in the United States} wholly or partially within the plume exposure pathway Emergency Planning Zone (EPZ), as well as the plans of ~~United States~~ governments wholly or partially within the ingestion pathway EPZ.¹ Generally, the plume exposure pathway EPZ for ~~light water nuclear power plants~~ ^{reactors} shall consist of an area about 10 miles in radius and the ingestion pathway EPZ shall consist of an area about 50 miles in radius. The exact size and configuration of the EPZs

¹Emergency Planning Zones (EPZs) are discussed in NUREG-0396, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants."

surrounding a particular nuclear power ~~plant~~ ^{reactor} shall be determined in relation to the emergency response needs and capabilities as they are affected by such local conditions as demography, topography, land characteristics, access routes, and local jurisdictional boundaries. The plans for the ingestion pathway shall focus on such less immediate actions as are appropriate to protect the food ingestion pathway.

Alternative versions of the first paragraph are presented

ALTERNATIVE

2. A new section 50.47 is added, ~~to read as follows:~~

§ 50.47 Emergency plans

Option A

No operating license for a nuclear power reactor will be issued unless the emergency response plans ^{submitted by the applicant in accordance with § 50.3:} of United States State and local governmental entities ^{in the United States that are} wholly or partially within the plume exposure pathway (EPZ),¹ as well as the plans of the ~~United States State and local~~ governments wholly or partially within the ingestion pathway EPZ, have been reviewed and concurred in² by the NRC. In the absence of one or more concurred-in plans, the applicant will have an opportunity to demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the plant in question, ^{or that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit operation.}] OR

flow

✓

✓

Move

UP ~~to 50.47~~ ^{to 50.47} ALTERNATIVE ^{to 50.47}

Generally, the plume exposure pathway EPZ for ~~light water~~ nuclear power plants shall consist of an area about 10 miles in radius and the

¹Emergency Planning Zones (EPZs) are discussed in NUREG-0396, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants."

²NRC staff guidance for the preparation and evaluation of State and local emergency response plans leading to NRC concurrence is contained in NUREG 75/111, "Guide and Checklist for Development and Evaluation of State and Local Government Radiological Emergency Response Plans in Support of Fixed Nuclear Facilities" (December 1, 1974) and Supplement 1 thereto dated March 15, 1977.

ingestion pathway EPZ shall consist of an area about 50 miles in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power ~~plant~~^{reactor} shall be determined in relation to the emergency response needs and capabilities as they are affected by such local conditions as demography, topography, land characteristics, access routes, and local jurisdictional boundaries. The plans for the ingestion pathway shall focus on such less immediate actions as are appropriate to protect the food ingestion pathway.

~~An alternative first paragraph to section 50.47 is also under con-~~

~~side~~
ALTERNATIVE SECTION B:

No operating license for a nuclear power ~~plant~~^{reactor} will be issued unless the emergency response plans submitted by the applicant in accordance with § 50.33(g) have been reviewed and concurred in by the NRC. An applicant may request an exemption from this requirement based upon a demonstration by the applicant that any deficiencies in the plans are not significant for the plant in question, or that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit operation. No such operating license will be issued unless NRC finds that appropriate protective actions, including evacuation when necessary, can be taken for any reasonably anticipated population within the plume exposure EPZ.

Move up to p. 101

3. Section 50.54 is amended by adding four new paragraphs, (s), (t), (u) and (v). ~~as follows~~ ^{Alternative passages for subsections (s) and (t) are provided:}

§50.54 Conditions of licenses

* * * *

1596 072

(s) Each licensee who is authorized to possess and/or operate a nuclear power reactor shall submit within 60 days of the effective date of this amendment the radiological emergency response plans of ~~United~~ ^{in the United States that are} ~~State~~ State and local governmental entities wholly or partially within the plume exposure pathway EPZ,¹ as well as the plans of State governments wholly or partially within the ingestion pathway EPZ. Generally, the plume exposure pathway EPZ for ~~light water~~ ^{reactors} nuclear power ~~plants~~ shall consist of an area about 10 miles in radius and the ingestion pathway EPZ shall consist of an area about 50 miles in radius. The exact size and configuration of the EPZs for a particular nuclear power ~~plant~~ ^{reactor} shall be determined in relation to the emergency response needs and capabilities as they are affected by such local conditions as demography, topography, and land characteristics, access routes, and local jurisdictional boundaries. The plans for the ingestion pathway shall focus on such less immediate actions as are appropriate to protect the food ingestion pathway. ^{ALTERNATIVE A} ~~If~~ the appropriate State and local government emergency response plans have not been concurred in² by January 1, 1981, the Commission will make a determination whether the ~~licensee~~ ^{reactor} should ~~operate~~ ^{be shut down}. ~~The reactor~~ ^{Operation} need not be ~~suspended~~ ^{shut down} if ^{the licensee can demonstrate to the Commission's satisfaction} the deficiencies in the plan are not significant for the plant in question, ~~that~~ ^{or} alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation.] OR [^{ALTERNATIVE B} ~~OPTION B~~]

→ next page

¹Emergency Planning Zones (EPZs) are discussed in NUREG-0396, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants."

²NRC staff guidance for the preparation and evaluation of State and local emergency response plans leading to NRC concurrence is contained in NUREG 75/111, "Guide and Checklist for Development and Evaluation of State and Local Government Radiological Emergency Response Plans in Support of Fixed Nuclear Facilities" (December 1, 1974) and Supplement 1 thereto dated March 15, 1977.

~~An alternative formulation that is being considered would replace the last two sentences of proposed Section 50.54(s) with the following:~~

If the plans submitted by the licensee in accordance with the subsection have not been concurred in by NRC within 180 days of the effective date of this amendment, ^{or by January 1, 1981, whichever is sooner,} the plant in question will ~~cease operation~~ ^{shut down} until the concurrences have been obtained. The licensee may request an exemption from this requirement ~~to cease operation~~ based upon a demonstration that any deficiencies in the plans are not significant for the plant in question, ^{or} that alternative compensating actions have been or will be taken promptly, ^{or} that there are other compelling reasons for continued ^u operation. However, unless and until this exemption has been granted by the Commission, the plant will not be allowed to operate.]

ALTERNATIVE

~~(b) Within 180 days after the effective date of the final amendments~~
~~After~~ ^{After} January 1, 1981, ~~whichever is sooner,~~ if during the operating license period of a nuclear power reactor the Commission determines that the appropriate State and local government emergency response plans do not warrant continued NRC concurrence and such State or local government fails to correct such deficiencies within 4 months of the date of notification of the defects, ~~and~~ until the plan is submitted and has again received NRC

review and concurrence, the Commission will make a determination whether

~~the licensee shall cease operation.~~ ^{reactor be shut down} The reactor ^{shut down} operation need not be ^{suspended} if ^{the licensee can demonstrate that} the ~~deficiencies~~ ^{Commission's satisfaction that} the deficiencies in the plan are not significant for the plant in question,

~~or~~ alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation.] OR

~~[An alternative formulation of Section 50.54(t) that is being considered is:~~

1596 074

ALTERNATIVE B

[OPTION 2]

after

(t) If, ^{after following} 180 days ~~or more after~~ the effective date of these amendments, ^{or by} January 1, 1981, ^{whichever is sooner,} and during the operating license period of a nuclear power reactor, the Commission determines that the appropriate State or local government emergency response plans do not warrant continued NRC concurrence and such State or local government fails to correct such deficiencies within 4 months of the date of notification of the defects, ~~and~~ until the plan is submitted and has again received NRC review and concurrence, the plant in question will ~~cease operation~~ ^{be shut down}. The licensee may request an exemption from this requirement ~~to cease operation~~ based upon a demonstration that any deficiencies in the plans are not significant for the plant in question, ~~or~~ that alternative compensating actions have been or will be taken promptly, ~~or~~ that there are other compelling reasons for continued operation. However, unless and until this exemption or a waiver has been granted by the Commission, the plant will not be allowed to operate.]

(u) The licensee of a nuclear power reactor shall provide for the development, revision, implementation and maintenance of its emergency preparedness program. To this end, the licensee shall provide for an independent review of its emergency preparedness program at least every 12 months by licensee, employees, contractors, or other persons who have no direct responsibility for implementation of the emergency preparedness program. The review shall include a review and audit of licensee drills, exercises, capabilities, and procedures. The results of the review and audit, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of five years.

1596 075

Alternative
[~~OPTION A~~ *A* By January 1, 1981] or [~~OPTION B~~ *B*]

(v) Within 180 days after the effective date of the final rules or by January 1, 1981, whichever is sooner] each licensee who is authorized to possess and/or operate a production or utilization facility shall have plans for coping with emergencies which meet the requirements of Appendix E of this Chapter.

3. 10 CFR Part 50, Appendix E, is amended as follows:

* * * * *

APPENDIX E--EMERGENCY PLANNING AND PREPAREDNESS FOR PRODUCTION AND UTILIZATION FACILITIES¹

I. Introduction

Each applicant for a construction permit is required by §50.34(a) to include in its preliminary safety analysis report a discussion of preliminary plans for coping with emergencies. Each applicant for an operating license is required by §50.34(b) to include in its final safety analysis report plans for coping with emergencies.

This appendix establishes minimum requirements for emergency plans for use in attaining a state of emergency preparedness. These plans shall be described in the preliminary safety analysis report and submitted as a part of the final safety analysis report. The potential radiological

¹The NRC staff has developed three regulatory guides: 1.101, "Emergency Planning for Nuclear Power Plants," 2.6, "Emergency Planning for Research Reactors," and 3.42, "Emergency Planning in Fuel Cycle Facilities and Plants Licensed Under 10 CFR Parts 50 and 70"; and NUREG-0610, "Draft Emergency Level Action Guidelines for Nuclear Power Plants" (September 1979) to help applicants establish adequate plans required pursuant to §50.34 and this Appendix for coping with emergencies. Copies of the guides are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies of guides may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

hazards to the public associated with the operation of research and test reactors are considerably less than those involved with nuclear power reactor. Consequently, the size of the EPZs for Research and Test reactors and the degree to which compliance with the requirements of this section and sections II, III, IV and V ^{is necessary} will be determined on a case-by-case basis using Regulatory Guide 2.6 as a standard for acceptance. State and local government emergency response plans, which may include the plans of off-site support organizations, shall be submitted with the applicant's emergency plans.

II. The Preliminary Safety Analysis Report

The Preliminary Safety Analysis Report shall contain sufficient information to ensure the compatibility of proposed emergency plans both for onsite areas and the EPZs with facility design features, site layout, and site location with respect to such considerations as access routes, surrounding population distributions, and land use for the Emergency Planning Zones² (EPZs).

As a minimum, the following items shall be described:

A. Onsite and offsite organizations for coping with emergencies, and the means for notification, in the event of an emergency, of persons assigned to the emergency organizations;

²The size of the EPZs for a nuclear power plant shall be determined in relation to the emergency response needs and capabilities as they are affected by such local conditions as demography, topography, land characteristics, access routes, and local jurisdictional boundaries. Generally, the plume exposure pathway EPZ for light water nuclear power plants shall consist of an area about 10 miles radius and the ingestion pathway EPZ an area about 50 miles in radius. EPZs are discussed in NUREG-0396. The size of the EPZ's for non-power reactors shall be determined on a case-by-case basis.

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B. Contacts and arrangements made and documented with local, State, and Federal governmental agencies with responsibility for coping with emergencies, including identification of the principal agencies.

ALTERNATIVE (a)

C. Protective measures to be taken in the event of an accident within the site boundary and within ^{each} ~~an~~ EPZ to protect health and safety; corrective measures to prevent damage to onsite and offsite property; and ^{the expected response, in the event of an emergency, of offsite agencies} ^{OR}

ALTERNATIVE (b)

C. Protective measures to be taken in the event of an accident within the site boundary and within each EPZ to protect health and safety; ~~the~~ procedures by which these measures are to be carried out (e.g., in the case of an evacuation, who authorizes the evacuation, how the public is to be notified and instructed, how the evacuation is to be carried out); and the expected response, in the event of an emergency, of offsite agencies;

D. Features of the facility to be provided for onsite emergency first aid and decontamination, and for emergency transportation of onsite individuals to offsite treatment facilities;

E. Provisions to be made for emergency treatment at offsite facilities of individuals injured as a result of licensed activities;

F. Provisions for a training program for employees of the licensee, including those who are assigned specific authority and responsibility in the event of an emergency, and for other persons not employees of the licensee whose assistance may be needed in the event of a radiological emergency;

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G. Features of the facility to be provided to ensure the capability for actuating onsite protective measures and the capability for facility reentry in order to mitigate the consequences of an accident or, if appropriate, to continue operation;

H. A preliminary analysis which projects the time and means to be employed in the notification of State and local governments and the public in the event of an emergency. A preliminary analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations.

III. The Final Safety Analysis Report

The Final Safety Analysis Report shall contain the emergency plans for coping with emergencies. The plans shall be an expression of the overall concept of operation, which describe the essential elements of advance planning that have been considered and the provisions that have been made to cope with emergency situations. The plans shall incorporate information about the emergency response roles of supporting organizations and offsite agencies. That information shall be sufficient to provide assurance of coordination among the supporting groups and between them and the licensee.

[ALTERNATIVE (a)

The plans submitted must include a description of the elements set out in Section IV to an extent sufficient to demonstrate that the plans provide reasonable assurance that appropriate measures can and will be taken in the event of an emergency to protect public health and safety and minimize damage to property within the Emergency Planning Zones

(EPZs).²] OR [→ next page

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[ALTERNATIVE (b)

The plans submitted must include a description of the elements set out in Section IV to an extent sufficient to demonstrate that the plans provide reasonable assurance that appropriate measures can and will be taken in the event of an emergency to protect public health and safety within the Emergency Planning Zones (EPZs).²]

IV. Content of Emergency Plans

The applicant's emergency plans shall contain, but not necessarily be limited to, the following elements: organization for coping with radiation emergencies, assessment action, activation of emergency organization, notification procedures, emergency facilities and equipment, training, maintaining emergency preparedness, and recovery. The applicant shall also provide an analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations.

A. ORGANIZATION

The organization for coping with radiological emergencies shall be described including definitions of authorities, responsibilities and duties of individuals assigned to licensee's emergency organization, and the means of notification of such individuals in the event of an emergency. Specifically, the following shall be included:

1. A description of the normal plant operating organization.
2. A description of the onsite emergency response organization with a detailed discussion of:
 - a. Authorities, responsibilities and duties of the individual(s) who will take charge during an emergency;

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- b. Plant staff emergency assignments;
- c. Authorities, responsibilities, and duties of an onsite emergency coordinator who shall be in charge of the exchange of information with offsite authorities responsible for coordinating and implementing offsite emergency measures.
3. A description of the licensee headquarters personnel that will be sent to the plant site to provide augmentation of the onsite emergency organization.
4. Identification, by position, of persons within the licensee organization who will be responsible for making offsite dose projections and a description of how these projections will be made and the results transmitted to State and local authorities, NRC, FEMA and other appropriate governmental entities.
5. Identification, by position and function, of other employees of the licensee with special qualifications for coping with emergency conditions which may arise. Other persons with special qualifications, such as consultants, who are not employees of the licensee and who may be called upon for assistance for short- or long-term emergencies shall also be identified. The special qualifications of these persons shall be described.
6. A description of the local offsite services to be provided in support of the licensee emergency organization.
7. Identification of and expected assistance from appropriate State, local, and Federal agencies with responsibilities for coping with emergencies.
8. Identification of the State and/or local officials responsible for planning for, ordering, notification of, and controlling

appropriate protective actions, including evacuations when necessary.

B. ASSESSMENT ACTIONS

The means to be provided for determining the magnitude and continued assessment of the release of radioactive materials shall be described including emergency action levels that are to be used as criteria for determining the need for notification and participation of local and State agencies and the Commission and other Federal agencies, and the emergency action levels that are to be used as criteria along with appropriate meteorological information for determining when protective measures should be considered within and outside the site boundary to protect health and safety and prevent damage to property. The emergency action levels shall be based on in-plant conditions and instrumentation in addition to onsite and offsite monitoring. These emergency action levels shall be discussed and agreed upon by the applicant and State and local governmental authorities and approved by NRC. They shall also be reviewed with the State and local governmental authorities on an annual basis.

C. ACTIVATION OF EMERGENCY ORGANIZATION

The entire spectrum of emergency conditions which involve the alerting or activation of progressively larger segments of the total emergency organization shall be described. The communication steps taken to alert or activate emergency personnel under each class of emergency shall be described. Emergency action levels (based not only on onsite and offsite radiation monitoring information but also on readings from a number of

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sensors that indicate a potential emergency such as the pressure in containment and the response of the Emergency Core Cooling System) for notification of offsite agencies shall be described. The existence, but not the details, of a message authentication scheme shall be noted for such agencies.

D. NOTIFICATION PROCEDURES

1. Administrative and physical means for notifying, and agreements reached with, local, State, and Federal officials and agencies for the early warning of the public and for public evacuation or other protective measures, should they become necessary, shall be described. This description shall include identification of the principal officials, by title and agencies, for the Emergency Planning Zones² (EPZs).

2. Provisions shall be described for the yearly dissemination to the public within the plume exposure pathway EPZ of basic emergency planning information such as the possibility of nuclear accidents, the potential human health effects of such accidents and their causes, methods of notification, and the protective actions planned if an accident occurs, as well as a listing of local broadcast network that will be used for dissemination of information during an emergency.

3. Administrative and physical means, and the time required, shall be described for alerting and providing ^{prompt} instructions³ to the public ~~promptly~~ within the plume exposure pathway Emergency Planning Zone. It is the applicant's responsibility to ensure that such means exist, regardless of who implements this requirement.

³It is expected that the capability will be provided to begin alerting of the public within the plume exposure pathway EPZ within 15 minutes of the notification by the licensee of local and State officials.

E. EMERGENCY FACILITIES AND EQUIPMENT

Provisions shall be made and described for emergency facilities and equipment, including:

1. Equipment at the site for personnel monitoring;
2. Equipment for determining the magnitude of and for continuously assessing the release of radioactive materials to the environment;
3. Facilities and supplies at the site for decontamination of onsite individuals;
4. Facilities and medical supplies at the site for appropriate emergency first aid treatment;
5. Arrangements for the services of a physician and other medical personnel qualified to handle radiation emergencies;
6. Arrangements for transportation of injured or contaminated individuals from the site to treatment facilities outside the site boundary;
7. Arrangements for treatment of individuals injured in support of licensed activities on the site at treatment facilities outside the site boundary;
8. One onsite and one offsite Emergency Control Center from which effective direction can be given and effective control can be exercised during an emergency;
9. At least one onsite and one offsite communications system, including redundant power sources. This will include the communication arrangements for emergencies, including titles and alternates for those in charge at both ends of the communication links and the primary and backup means of communication. Where consistent with function of the governmental agency, these arrangements will include:

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a. Provision for communications with contiguous State/local governments within the plume exposure pathway Emergency Planning Zone. Such communications shall be tested monthly.

b. Provision for communications with Federal emergency response organizations. Such communications systems shall be tested annually.

c. Provision for communications between the nuclear facility, State and/or local emergency operations centers, and field assessment teams. Such communications systems shall be tested annually.

F. TRAINING

The program to provide for (1) the training of employees and exercising, by periodic drills, of radiation emergency plans to ensure that employees of the licensee are familiar with their specific emergency response duties, and (2) the participation in the training and drills by other persons whose assistance may be needed in the event of a radiation emergency shall be described. This shall include a description of specialized initial training and periodic retraining programs to be provided to each of the following categories of emergency personnel:

- a. Directors or coordinators of the plant emergency organization.
- b. Personnel responsible for accident assessment, including control room shift personnel.
- c. Radiological monitoring teams.
- d. Fire control teams (fire brigades).
- e. Repair and damage control teams.
- f. First aid and rescue teams.
- g. Local services personnel, e.g., local Civil Defense, local law enforcement personnel, and local news media persons.

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- h. Medical support personnel.
- i. Licensee's headquarters support personnel.
- j. Security personnel.

The plan shall describe provisions for the conduct of yearly drills and exercises to test the adequacy of timing and content of implementing procedures and methods, to test emergency equipment and communication networks, and to ensure that emergency organization personnel are familiar with their duties. Such provisions shall specifically include participation by offsite personnel as described above as well as other State and local governmental agencies. The plan shall also describe provisions for a joint exercise involving the Federal, State, and local response organizations. The scope of such an exercise should test as much of the emergency plans as is reasonably achievable without involving full public participation. Definitive performance criteria shall be established for all levels of participation to ensure an objective evaluation. This joint Federal, State, and local exercise shall be:

1. for presently operating plants, initially within one year of, ^{ALTERNATIVE} ~~the~~ the effective date of this amendment and once every ^A [three years] ^{OR} ~~for (proposed alternative)~~ ^{ALTERNATIVE B} [five years] thereafter.
3. for a plant for which an operating license is issued after the effective date of this amendment, initially within one year of the issuance of the operating license and once every ^{OPTION A} [three years] ^{OPTION B} ~~for (proposed alternative)~~ [five years] thereafter.

All training provisions shall provide for formal critiques in order to evaluate the emergency plan's effectiveness and to correct weak areas through feedback with emphasis on schedules, lesson plans, practical training, and periodic examinations.

G. MAINTAINING EMERGENCY PREPAREDNESS

Provisions to be employed to ensure that the emergency plan, its implementing procedures and emergency equipment and supplies are maintained up to date shall be described.

H. RECOVERY

Criteria to be used to determine when to the extent possible, following an accident, reentry of the facility is appropriate or when operation should be continued.

V. Implementing Procedures

Within 130 days prior to scheduled issuance of an Operating License, 10 copies each of the applicant's detailed implementing procedures for its emergency plan shall be submitted to NRC Headquarters and to the appropriate NRC Regional Office. Within ^{common} [60 days] or ~~(proposed alternative)~~ [OPTION B January 1, 1981, 180 days] after ~~the effective date of this amendment~~, licensees who are authorized to operate a nuclear power facility shall submit 10 copies each of the licensee's emergency plan implementing procedures to NRC Headquarters and to the appropriate NRC Regional Office. As necessary to maintain them up to date thereafter, 10 copies each of any changes to these implementing procedures shall be submitted to NRC Headquarters and to the same NRC Regional Office within 30 days of such changes.

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