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May 18, 1979

SECY-79-343

COMMISSIONER ACTION

For: The Commissioners

From: Robert G. Ryan, Director
Office of State Programs

Thru: Executive Director for Operations *RR*

Subject: RESPONSE TO GAO REPORT ON RADIOLOGICAL EMERGENCIES

Purpose: To obtain Commission approval of NRC comments to Congress

Discussion: The Legislative Reorganization Act of 1970 requires the Chairman to submit a written statement on action taken on GAO recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report.

The GAO report, "Areas Around Nuclear Facilities Should Be Better Prepared For Radiological Emergencies", requires a response to Congress by May 29, 1979. The enclosed letter is the proposed response.

This GAO report discusses the emergency response planning and capabilities at the nuclear facilities of the Nuclear Regulatory Commission, Department of Defense, and Department of Energy and the surrounding communities. It makes two recommendations to the Chairman, Nuclear Regulatory Commission, and a third recommendation jointly to the Chairman and the Secretaries of Defense and Energy. In addition, the report makes joint and separate recommendations to the Secretaries of Defense and Energy and one to the Director, Federal Emergency Management Agency.

The proposed NRC response agrees that, in the light of the Three Mile Island (TMI) accident, it would be desirable for the NRC staff and the Commission to accept the GAO recommendation that nuclear power plants be allowed to begin operation only where State and local emergency response plans meet NRC's planning guidelines. Likewise, the response states that consideration will be given to the recommendation that licensees be

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required to make agreements with State and local agencies assuring the full participation of these agencies in annual emergency drills with State and local governments.

Concerning the establishment of 10-mile emergency planning zones around all nuclear power plants, the response states that the Commission will give careful consideration to this recommendation and other recommendations of the NRC/EPA Task Force in its report "NUREG/EPA-520/1-78-016 of December 1978. The NRC/EPA Task Force will analyse all public comments, internal NRC staff comments, and comments of other Federal agencies before the matter is put before the Commission and EPA in July 1979.

The response indicates that the GAO recommendation that people living near nuclear facilities be given more information about the potential hazard, emergency actions planned and what to do in the event of any accident is similar in part to a Public Interest Research Group (PIRG) petition for rulemaking that was denied by the Commission in July 1977. However, the response states that some information may be desirable and the NRC will take appropriate action to carry out this recommendation.

The proposed response expresses support for the GAO recommendations to the Secretaries of Defense and Energy which call for more effort in radiological emergency preparedness with the State and local governments where DOD and DOE nuclear facilities are located.

The NRC response also supports the GAO recommendation for the Director, Federal Emergency Management Agency (FEMA) to be responsible for making policy and for coordinating radiological emergency response planning around nuclear facilities so long as the technical Federal agencies, Nuclear Regulatory Commission, Environmental Protection Agency, and Department of Health, Education, and Welfare, are permitted to continue providing assistance to State and local governments under NRC technical leadership.

Subject to Commission approval, an identical letter to the enclosure will be sent under the Chairman's signature to the Chairman, Senate Committee on Governmental Affairs, Chairman, Senate Subcommittee on Nuclear Regulation; Chairman, House Subcommittee on Energy and the Environment;

Chairman, House Subcommittee on Energy and Power, Comptroller General of the U.S.; and Director, OMB.

The most important of GAO's recommendations to the Chairman, NRC, and the only controversial one, is the proposal that nuclear power plants begin operation only where State and local government emergency response plans contain all the Commission's essential planning elements (Supplement No. 1 to NUREG-75/111, dated March 15, 1977). The proposed response would have the Commission accept this recommendation.

There are several arguments in favor of Commission support of this GAO recommendation:

- Recognizes the important linkage between licensee and offsite organization emergency plans and preparedness for response to radiological emergencies.
- A bold step in fulfillment of the NRC mission of protection of health and safety of the public in relation to its licensing activities. Will give public more assurance that the Commission takes seriously this central aspect of its mission.
- There is a growing sentiment in the Congress to legislate this requirement. The Commission, going on record now, might disarm or favorably influence the proponents in Congress. A positive stance now could put the Commission in a position to accomplish the objective sought by the GAO recommendation and similar legislative proposals in a manner most acceptable and feasible to the NRC.
- Forces Commission to address an important policy issue, in their terms, before it is likely to be dictated to them, perhaps in terms that are less agreeable or perhaps unacceptable.
- Recognizes the importance of offsite consequences of accidents at nuclear power plants, as borne out by TMI, and the commitment of the NRC to pay more attention to emergency response activity in these areas and giving it a more balanced place with licensee planning in the NRC licensing process.

There are also arguments for not going along with the GAO recommendation:

- State and local authorities could thwart licensing process by refusing to develop emergency plan.
- Commission and staff has not sufficiently evaluated the proposal to know enough of the implications and ramifications that are necessary for a knowledgeable decision.
- More time is required to properly staff this important policy matter.
- The present voluntary procedure of dealing with the States is working reasonably well and is producing acceptable results. States have shown increased and renewed interest in plan preparation and NRC concurrence since TMI.
- Staff requirements will increase due to need for formal regulatory procedures to implement proposal.
- Further delays in licensing of plants could result.
- Greater strain will be placed on State and local governments to meet more formal, and perhaps more stringent, requirements that would result if the requirement was made a part of the licensing process.

On balance, State Programs believes the Commission should accept this GAO recommendation.

Coordination:

The Office of Inspection and Audit concurs. The Office of the Executive Legal Director has no legal objections. The Office of Standards Development concurs in the basic responses but believes that the Commission should be provided alternative responses with pros and cons of each. We have attempted to do this with the most significant GAO recommendation. The Office of Nuclear Materials Safety and Safeguards does not concur in the recommendation tying state and local emergency plans to the nuclear

power plant licensing process because of the implications in the licensing of other nuclear activities. The Office of Nuclear Reactor Regulation proposed alternative language on the response dealing with State and local emergency plans which essentially rejects the GAO recommendation on the grounds that its objectives can be met through the present coordination of licensee - state - local emergency planning and preparedness capabilities as set forth in 10 CFR 50, Appendix E and Regulatory Guide 1.101. The Office of Inspection and Enforcement believes that the response to the GAO recommendation on state and local government emergency plans should state that more time is needed to evaluate it.

The comments of SD, NMSS, NRR and IE are enclosed. OCA concurs in addressees.


Robert G. Ryan, Director
Office of State Programs

Enclosures:

1. Draft letter to Congress
2. NRC Actions on GAO recommendations
3. Other office views

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Friday, May 25, 1979.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT May 23, 1979, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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D R A F T

The Honorable Jack Brooks, Chairman
Committee on Government Operations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On March 30, 1979, the Comptroller General of the United States submitted a report to the Congress entitled "Areas Around Nuclear Facilities Should Be Better Prepared for Radiological Emergencies." The report made two recommendations to the Chairman of the Nuclear Regulatory Commission and one recommendation applicable to the Secretaries of Defense and Energy, as well as, the Chairman. In addition, the report made a recommendation to the Director, Federal Emergency Management Agency that has direct implications for an interagency program for which the Nuclear Regulatory Commission staff provides leadership.

I am pleased to provide you with the enclosed statement of actions the Nuclear Regulatory Commission plans to take in addressing the recommendations directed at this agency. It also includes a reaction to the recommendation made to the Director, Federal Emergency Management Agency.

Sincerely,

Joseph M. Hendrie
Chairman

Enclosure:
Response to GAO Report

cc: Mr. Frank Horton

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ENCLOSURE 1

NRC ACTIONS ON GAO RECOMMENDATIONS TO CHAIRMAN, NRC

1. "The Chairman, Nuclear Regulatory Commission should allow nuclear power plants to begin operation only where State and local emergency response plans contain all the Commission's essential planning elements. In addition, the Commission should require license applicants to make agreements with State and local agencies assuring their full participation in annual emergency drills over the life of the facility."

NRC ACTION

To date, NRC has not considered it necessary to require that State and local radiological emergency response plans contain all the Commission's essential planning elements as a condition precedent to issuing a nuclear power plant operating license. Such plans are desirable, however, since they provide an added assurance to the State and local officials and the general public where nuclear power plants are located that appropriate protective measures could be taken in the event of an accident with offsite consequences.

The NRC, with the cooperation of seven other Federal agencies, has had some success in assisting State and local governments in the preparation and evaluation of their radiological emergency response plans and in other activities to improve State and local preparedness posture in this area. This activity does not rest on any specific statutory authority and is done on a cooperative and voluntary basis. Over the past two years, State and local government capabilities to respond to the offsite effects of a nuclear power plant radiological accident have been considered in a more formal way in the licensing process. The approach

ENCLOSURE 2

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has been through the evaluation of the licensee emergency plans and the requirements in NRC regulations that certain emergency readiness arrangements be made by the licensee with offsite State and local government organizations.

The Three Mile Island accident response by State and local organizations and the utility has raised a number of questions about legal requirements for and adequacy of emergency radiological response plans. We believe now that the emergency plans of licensees and of State and local governments have become so interdependent that NRC regulations should give them similar legal status in the licensing process.

We have, accordingly, instructed the staff to develop appropriate changes to the Commission's regulations which will require NRC concurrence in the adequacy of State and local radiological emergency response plans related to licensed nuclear facilities as a condition for granting an operating license.

Regarding emergency drills by State and local governments with the licensee of a nuclear power plant, this participation has been encouraged by the NRC in two ways: on the licensee side through the non-specific language in 10 CFR 50 Appendix E, paragraph IV.I; and on the State side by making a test of a State plan a precondition to NRC concurrence and thereafter making an annual test the condition of continued concurrence. Making joint drills or exercises between the nuclear facilities and the States and local governments a specific requirement in NRC regulations is also a matter worthy of serious consideration. This suggestion will be considered, along with the action to be taken on State and local government plan concurrence before issuance of an operating license.

2. "The Chairman, Nuclear Regulatory Commission should establish an emergency planning zone of about 10 miles around all nuclear power plants as recommended by the Environmental Protection Agency/Nuclear Regulatory Commission task force, and require licensees to modify their emergency plans accordingly."

NRC ACTION

The EPA/NRC Task Force report entitled "Planning Basis for the Development of State and Local Government Radiological emergency Response Plans in Support of Light Water Nuclear Power Plants", NUREG-0396/EPA-520/1-78-016, recommends the establishment of about a 10-mile emergency planning zone for the plume exposure pathway and another zone of about 50 miles for the ingestion exposure pathway. This matter will not come before the Commission until about mid July. The public comment period was extended from March 30 to May 15, 1979 in consideration of the accident at the Three Mile Island nuclear station. The recommendations of the Task Force, the public commenters, the NRC staff, other Federal agencies, and the GAO on the matter of establishing emergency planning zones around nuclear power plants will be given careful consideration by the Commission within the next 90 days.

3. "The Chairman, Nuclear Regulatory Commission, and the Secretaries of Defense and Energy should, to the extent that national security is not jeopardized, require that people living near facilities be periodically provided with information about the potential hazard, emergency actions planned, and what to do in the event of an accidental radiological release."

NRC ACTION

A similar proposal was made to the NRC by a Public Interest Research group petition for rule-making in August 1975. The petition for rule-making was denied (see 42 FR 36326, July 14, 1977). The grounds for denial of that part of the petition dealing with providing information to the public were that information explaining the emergency plan would, of necessity, be so general as to be subject to misinterpretation; or if written to cover the wide range of possibilities, the information would be too complex for the public to understand, or to follow in an emergency. The Commission did state, however, that information on emergency plans should be made available to those who requested it. Based upon the response to TMI, however, the Commission believes that some type of very general information to the public would be beneficial. The information would not necessarily explain the specific types of protective measures that they would take, but could simply give instructions as to who will be providing information during the emergency. (For example, explain that the governor will provide such information over the local radio station or TV stations.) The information could also briefly explain the three basic types of protective actions which would be considered at the time of the emergency (take shelter, evacuate, administer thyroid blocking agent). NRC will take appropriate action to implement this recommendation.

4. The report recommends that the Director, Federal Emergency Management Agency (FEMA) assume the responsibility for making policy and coordinating radiological emergency response planning around Nuclear facilities. The NRC supports the notion that the new FEMA play an active policy role in this area of preparedness. We believe, that FEMA's coordinating role should also be directed at policy considerations and that it should rely on the technical agencies such as the Nuclear Regulatory Commission, Environmental Protection Agency, and Department of Health, Education, and Welfare, now involved, to continue providing assistance to State and local governments in this emergency planning activity. In this regard the NRC is prepared to continue its lead technical agency role.

5. The Commission supports the GAO recommendations to the Secretaries of Defense and Energy, calling for the development of closer relations between DOD and DOE nuclear facility operations and State and local government agencies in radiological emergency response matters including joint drill and exercises.