



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

SEP 7 1979

MEMORANDUM FOR: Joseph M. Felton, Director, Division of Rules and
Records, ADM

FROM: Patricia A. Comella, Chief, Site Designation Standards
Branch, SD

SUBJECT: IMPLEMENTATION OF COMMISSION ACTION ON SECY 79-367
"PROPOSED AMENDMENTS TO 10 CFR PARTS 50 AND 70 ON
EMERGENCY PLANS

On August 9, 1979, we were informed that the Commission approved, subject to certain modifications, the publication of the notice of proposed rule making in the Federal Register for a 60 day comment period.

The Commission requested modifications have been made to the Federal Register notice; therefore, I request that you implement the Commission's action by having the enclosed notice of proposed rule making published in the Federal Register. I also request that you take appropriate actions that will assure that the attached copies of the Value/Impact analysis are forwarded to the PDR after the notice is published in the Federal Register.

for

Patricia A. Comella, Chief
Site Designation Standards Branch
Office of Standards Development

Enclosures:
Notice of proposed rule making
Value Impact Analysis

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NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 50 and 70]

EMERGENCY PLANNING

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Proposed Rule

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations in order to require that all production and utilization facility licensees shall, as a condition of their license, submit emergency plans for NRC review and approval and maintain the emergency plans up to date. The Commission is also proposing to amend its regulations in order to require certain Special Nuclear Material Facility licensees (for processing and fuel fabrication, scrap recovery or conversion of uranium hexafluoride) to maintain the emergency plans up to date.

DATES: Comments should be submitted on or before

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed rule change 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. Single copies of the value/impact analysis may be obtained on request from Michael T. Jamgochian, 301-443-5981. 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, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael T. Jamgochian, Office of Standards Development,
U.S. Nuclear Regulatory Commission,
Washington, D.C. 20555 (phone: 301-443-5981)

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is considering the adoption of amendments to its regulation, "Licensing of Production and Utilization Facilities," 10 CFR Part 50, which would require each holder of a license to submit for NRC review and approval the licensee's emergency plans which meet the requirements of Appendix E to 10 CFR Part 50 and to require that these plans be maintained up to date.

In addition, the Nuclear Regulatory Commission is considering the adoption of an amendment to its regulation, "Special Nuclear Material," 10 CFR Part 70, which would require certain licensees to maintain up-to-date emergency plans which contain the elements of Section IV of Appendix E of 10 CFR Part 50.

The Commission is also considering, in a much broader perspective, a number of rule changes relating to planning for emergencies. To that end, an Advance Notice of Rulemaking was published in the Federal Register on July 17, 1979, 44 FR 41483 to request comments on a number of issues. The issue addressed in this Notice of Proposed Rulemaking is merely one aspect of the broader general issues set forth in that Advance Notice.

Paragraph 50.34(a)(10) of 10 CFR Part 50 requires that an applicant provide in the Preliminary Safety Analysis Report "a discussion of the applicant's preliminary plans for coping with emergencies." Appendix E

sets forth items which shall be included in these plans. Paragraph 50.34(b)(6)(v) of 10 CFR Part 50 requires that an applicant provide in the Final Safety Analysis Report "plans for coping with emergencies, which shall include the items specified in Appendix E."

These paragraphs in 10 CFR Part 50 became effective in January 1971; therefore, they were not applicable to production and utilization facilities licensed prior to January 1971.

Discussion for Part 50: The Commission's interest in emergency planning is focused primarily on situations that may cause or may threaten to cause radiological risks affecting the health and safety of workers or the public or that may result in damage to property. The Commission and the public have recognized the increasing importance of emergency planning. Emergency plans should be directed toward mitigating the consequences of emergencies and should provide reasonable assurance that appropriate measures can and will be taken to protect health and safety and prevent damage to property in the event of an emergency. Although it is not practicable to develop a completely detailed plan encompassing every conceivable type of emergency situation, advance planning can create a high order of preparedness, including provisions of necessary equipment, supplies, and services, and ensure an orderly and timely decisionmaking process at times of stress.

Specifically, in January 1971, Section 50.34 to 10 CFR Part 50 was modified to require submittal of the licensee's emergency plans with Construction Permit and Operating License applications. Appendix E to Part 50 specifies items to be included in the emergency plans. This revision to our regulations has been implemented by the NRC staff for all power and test reactor licensees. While Appendix E did not, strictly

speaking, apply to facilities licensed prior to January 1971. The staff, nevertheless, requested the older power and test reactor licensees to meet the terms of Appendix E. All power and test reactor licensees have emergency plans which conform to 10 CFR Part 50, Appendix E. For research reactors, however, the NRC staff is presently requesting that licensees comply with Appendix E when they apply for a renewal of their operating license. While § 50.90 would likely provide a regulatory basis for requiring compliance with Appendix E at the time of a license renewal, this proposed rule change would accelerate that process. It is the staff's intention to use Regulatory Guide 2.6 ("Emergency Planning for Research Reactors") to aid licensees in complying with the proposed rule change.

After careful consideration of the above, the Commission believes that a rule change should be promulgated which would specifically require research reactor facility licensees with an authorized power level greater than 500 kW thermal, to submit within one year from the effective date of this rule, emergency plans for NRC review and approval. For all other research reactors, emergency plans shall be submitted within two years from the effective date of this rule. All other production and utilization facility licensees will be legally required to submit emergency plans for NRC review and approval within 120 days from the effective date of this amendment, if they have not done so previously.

Likewise, proper execution of the responsibilities of the licensee requires accurate up-to-date information as a basis for action. Emergency plans are required as a condition of an application (§ 50.34 and § 70.22(i)) and are submitted as part of the FSAR or final license application to address the elements existing in 10 CFR Part 50, Appendix E.

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Some of the items addressed in the emergency plans are: (1) means for determining the magnitude of a release of radioactive material; (2) criteria for determining the need for notification and participation of local and State agencies; (3) criteria for determining when protective measures should be considered within and outside the site boundary; (4) onsite decontamination facilities and supplies; and (5) arrangements for services of qualified medical personnel to handle radiation emergencies.

In approving the emergency plans, the Commission must find that the licensee's plans conform to the requirements of 10 CFR Part 50, Appendix E, and that the emergency 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 prevent damage to property. Once this finding is made, the requirements for maintaining the emergency plans up to date is limited. As the plant gets older, the licensee may make unilateral changes to the emergency plans, such as changing the decontamination facility into a storeroom or changing the criteria for determining the need for modification and participation of local and State agencies, without approval or even notification of NRC. However, Appendix E does provide for the maintenance and inspection of the implementing procedures of the emergency plans.

At this point, a distinction should be made between the licensee emergency plans and the implementation procedures of the licensee emergency plans. As previously stated, emergency plans must be written by the applicant and approved by the NRC before an operating license can be received. A set of implementing procedures must also be written to transfer the descriptions in the plan into detailed step-by-step instructions for plant personnel. In 10 CFR Part 50, Appendix E, Section IV, Paragraph E,

the regulations require "Provisions for maintaining up to date: (1) The organization for coping with emergencies, (2) the procedures for use in emergencies, and (3) the lists of person with special qualifications in coping with emergency conditions." The details of this information are usually in the licensees' implementation procedures and not in the emergency plans. Thus, the regulations do require that the implementation procedures be maintained up to date. Such procedures are, in fact, inspected by the Office of Inspection and Enforcement periodically. However, there is no specific requirement in the Commission's regulations for licensees to maintain the emergency plans up to date, and this lack of regulation could be detrimental to the public health and safety in the event of an emergency situation. Therefore, the thrust of this part of the rule change is not directed to the implementing procedures but to the licensee emergency plans (as submitted in the FSAR). The effect will be on all licensees of production and utilization facilities.

Part 70: On March 31, 1977, paragraphs 70.22(i) and 70.23(a)(11) of 10 CFR Part 70 became effective and require that each application for a license to possess and use special nuclear material for processing and fuel fabrication, scrap recovery, or conversion of uranium hexafluoride shall contain plans for coping with radiological emergencies. Prior to this date, licensees developed plans for coping with radiological emergencies based on the requirements imposed as a license condition. The March 31, 1977 rule changes specify that the emergency plans shall contain the elements that are listed in Section IV, "Content of Emergency Plans," of Appendix E to 10 CFR Part 50. However, these rule changes do not require the licensee to maintain the emergency plans up to date. It is the Commission's judgment that the licensee emergency plans should be

kept up to date in order to prevent potential problems resulting from the use of outdated information.

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 Parts 50 and 70 are contemplated.

Copies of comments received on the proposed amendment may be examined in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

1. Section 50.54 is amended by adding two new paragraphs (q) and (r) to read as follows:

§ 50.54 Conditions of licenses

* * * * *

(q) A licensee authorized to possess and/or operate a facility shall follow and maintain in effect emergency plans approved by the Commission. The licensee may make changes to the approved plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E of this chapter. The licensee shall furnish to the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC regional office specified in Appendix D, Part 20 of this chapter, a report containing a description of each change within six months after the change is made. Proposed changes which decrease the effectiveness of the approved emergency plans shall not be implemented without application to and approval by the Commission.

(r) Each licensee who is authorized to possess and/or operate a research reactor facility, with an authorized power level greater than 500 kW thermal, under a license of the type specified in Section 50.21(c) and who had not obtained Commission approval of the emergency plans, as described in Section 50.34(b)(6)(v), prior to obtaining an operating license shall submit such plans to the Director of Nuclear Reactor Regulation for approval within one year from the effective date of this rule. Each licensee who is authorized to possess and/or operate a research reactor facility, with an authorized power level less than 500 kW thermal, under a license of the type specified in Section 50.21(c) and who had not obtained Commission approval of the emergency plans, as described in Section 50.34(b)(6)(v), prior to obtaining an operating license shall submit such plans to the Director of Nuclear Reactor Regulation for approval within two years from the effective date of this rule. Each licensee who is authorized to possess and/or operate any other production or utilization facility who has not obtained Commission approval of the emergency plans, as described in Section 50.34(b)(6)(v), prior to obtaining an operating license shall submit such plans to the Director of Nuclear Reactor Regulation for approval within 120 days from the effective date of this rule.

2. Section 70.32 is amended by adding paragraph (i) to read as follows:

§ 70.32 Conditions of licenses

* * * * *

(i) Licensee required to submit emergency plans in accordance with 70.22(i) shall follow and maintain in effect emergency plans approved by the Commission. The licensee may make changes to the approved plans without

Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E, Section IV, of 10 CFR Part 50. The licensee shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC regional office specified in Appendix D, Part 20 of this chapter, a report containing a description of each change within six months after the change is made. Proposed changes which decrease the effectiveness of the approved emergency plan shall not be implemented without application to and approval by the Commission.

(Sec. 161b., Pub. Law 83-703, 68 Stat. 948, Sec. 201, Pub. Law 93-438, 88 Stat. 1242 (42 U.S.C. 2201(b), 5841))

Dated at _____ this _____ day of _____ 1979.

For the Nuclear Regulatory Commission.

Secretary of the Commission

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