

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

TEPA

June 3, 1980

SECY-80-275

**CONSENT CALENDAR ITEM**

For: The Commissioners

From: Robert B. Minogue, Director  
Office of Standards Development

Thru: Executive Director for Operations *C. J. [Signature]*

Subject: FINAL RULEMAKING ON EMERGENCY PREPAREDNESS

Purpose: To obtain Commission approval for publication of the final rule change in the Federal Register.

Category: This paper covers a major policy question.

Issue: How the emergency planning rule changes should be finalized, including consideration of the public comments received.

Background: In mid 1979, The Commission directed that rulemaking on the subject of emergency planning be undertaken and considered a matter of high priority and that the rulemaking procedure be completed expeditiously. On July 17, 1979, the Commission published an Advance Notice of Proposed Rulemaking (44 FR 41483) on the subject of State and local governmental emergency response plans and those of licensees. Approximately 90 comment letters were received in response to this Advance Notice and the staff analysis of these comments was published in NUREG-0628, January, 1980.

On September 19, 1979, the Commission published for public comment (44 FR 54308) proposed amendments to its regulations concerning the maintenance of emergency plans and a requirement that research reactors establish and submit emergency plans to NRC. On December 19, 1979, the Commission also published for public comment (44 FR 75167) proposed amendments for the upgrading of its emergency planning regulations. The comments received and the staff's evaluation are contained in NUREG-0684. In addition, the NRC conducted four Regional Workshops to present the proposed rule changes and solicit comments. These comments are available in NUREG/CP-0011 (April 1980). The staff considered the information received at these workshops and that submitted by the comment letters (more than 170 received) in developing the final rule changes.

On April 22, 1980, the ACRS Subcommittee on Site Evaluation met with the staff and reviewed the proposed rule changes that were published in the Federal Register on December 19, 1979 (44 FR 75167). On May 1, 1980, the full ACRS met and discussed the proposed rule changes along with the staff's proposed changes in the final rule. The ACRS comments resulting from these

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Contact:  
Mike Jamgochian, 443-5966

THIS DOCUMENT CONTAINS  
POOR QUALITY PAGES

meetings are attached as Enclosure G. The staff's resolution and analysis of those comments are attached as Enclosure L. The ACRS Subcommittee on Site Evaluation again met on May 22, 1980 to review a draft of the staff's proposed final rule changes. The full ACRS is scheduled to review the draft proposed final rule changes in early June 1980. These additional ACRS meetings and reviews will undoubtedly result in additional comments from the ACRS. The staff will respond to these either in a supplement to this paper or at the Commission briefing.

Discussion:

The subject rule changes are considered an upgrade of NRC emergency planning regulations that will provide prompt clarification and expansion in areas perceived to be deficient as a result of past experiences. The staff anticipates that further changes in the emergency planning regulations may be proposed as more experience is gained by implementing these revised regulations.

The rule changes involve the following three major changes from past practices:

1. In order to continue operations or to receive an operating license, the NRC will require that an applicant/licensee submit their emergency plans, as well as, State and local governmental emergency response plans to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency.

The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the licensee's/applicant's emergency plans are adequate and capable of being implemented. Specifically:

- a. An Operating License will not be issued unless a favorable NRC overall finding can be made.
  - b. After January 1, 1981, an operating plant may be required to shutdown if it is determined that there are such deficiencies that a favorable NRC finding cannot be made or is no longer warranted and the deficiencies are not corrected within 4 months of that determination.
2. Emergency planning considerations must be extended to "Emergency Planning Zones," and

3. Detailed emergency planning implementing procedures of both licensees and applicants for operating licenses must be submitted to the I&E regional office for review.

In addition, the staff is 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 regulations.

The staff has concluded and recommends that the following substantive changes should be made in the proposed rule changes which were published on December 19, 1979 (44 FR 75167). These changes are reflected in the final rule text, which is included in the proposed Federal Register Notice provided as Enclosure B.

1. The term "Concurrence" has been deleted from the regulations and replaced with a description of the actual procedure and a listing of the sixteen planning objectives that NRC and FEMA have agreed upon for the upgrading of emergency preparedness around nuclear facilities. These objectives and their acceptance criteria are in NUREG-0654; FEMA REP-1, titled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," January 1980. The staff plans to withdraw and subsequently revise Regulatory Guide 1.101 "Emergency Planning for Nuclear Power Plants" in the near future because NUREG-0654 now contains the most updated guidance for the development of adequate emergency response plans. According to the agreed upon procedure, FEMA will make a finding and determination as to the adequacy of State and local governmental emergency response plans, and the NRC staff will determine the adequacy of licensee emergency response plans. After these two determinations have been made, the NRC will make a finding in the licensing process as to the overall and integrated state of preparedness.

This conclusion that the term "concurrence" should be deleted was reached primarily because it was pointed out to the staff at the workshops and in the public comment letters that the term "concurrence" was confusing and ambiguous. Part of this confusion was due to the Commission's previous practice in this area whereby the obtaining of NRC "concurrence" in State emergency response plans was voluntary on the part of States and not a regulatory requirement in the licensing process. Also, in the past, NRC "concurrence" was not site specific but was State wide. In this regard,

a paragraph has been added to the supplemental information which clarifies and provides detailed information concerning the FEMA/NRC working relationship and the interaction of these agencies with State and local governments and the licensees in the implementation of this regulation (see FEMA/NRC Memorandum of Understanding, January 1980, (45 FR 5847), also see Enclosure H.

2. The requirement for a capability to notify the public within 15 minutes after the State/local authorities have been notified by the licensee has been moved from a footnote to the text of Appendix E and has been expanded and clarified. Furthermore, the implementation schedule for this requirement has been extended to July 1, 1981. This extension is suggested because many State and local governments convinced the staff of the difficulty in procuring hardware, contracting for installation, as well as developing procedures for using the systems needed for implementing this requirement. The required implementation date for all other areas of the rule changes is January 1, 1981. For a more detailed discussion of this major issue see page 22 of Enclosure B.
3. A paragraph has been added to the supplemental information of the rule change addressing the funding of emergency planning. The staff felt that this paragraph was needed because of the great number of funding questions that surfaced at the workshops and in the public comment letters.

Rationale for  
Alternatives  
Chosen:

In six places in the proposed rule changes, the Commission identified two alternatives that it was considering. Considerable public comments were received on these alternatives and after due consideration of all comments received, as well as the discussions presented during the workshops, the following alternatives are recommended by the staff to be used in the final rule changes.

In Sections 50.47 and 50.54(s) and (t), the alternatives dealt with conditioning the issuance of an operating license or continued operation of a nuclear power plant on the existence of State and local government emergency response plans "concurrent in" by NRC. The basic difference between alternatives A and B in these sections was that under alternative A, the proposed rule would require a Commission determination on issuing a license or shutdown of a plant where relevant State and local emergency response plans do not receive or subsequently lose NRC concurrence. In alternative B, denial of a license or

shutdown of a reactor would be required automatically where the appropriate State and local emergency response plans do not receive NRC concurrence within the prescribed time period or lose concurrence, unless an exemption is granted.

After careful consideration, the staff concludes that alternative A for Section 50.47 and 50.54(s) and (t) is preferred primarily because it will provide more flexibility for the Commission. Alternative B however, appears to have the possibility of causing unnecessarily harsh economic and social consequences to State and local governments, utilities and the public. This position is consistent with most of the comments received from State and local governments.

In Appendix E, Section II C (relating to PSAR's) and III (relating to FSAR's), alternative A would require an applicant/licensee to outline "...corrective measures to prevent damage to onsite and offsite property," as well as protective measures for the public. Alternative B only addresses protective measures for the public health and safety. The staff concludes that alternative B is preferred in both cases because public health and safety should take clear precedence over actions to protect property. Measures to protect property can be taken on an ad hoc basis as resources become available after an accident.

In Appendix E, under Training, alternative A would require a joint licensee, Federal, State and local government exercise for each site every 3 years, whereas alternative B would require these exercises to be performed every 5 years. This is in addition to the requirement that the licensee must have an annual exercise with the local governments. The staff concludes that alternative B is preferred because of the probable inability of the Federal emergency response agencies to support exercises every 3 years for all of the nuclear facilities that would be required to comply with this regulation. Moreover, the staff is satisfied that the requirement that exercises be performed every 5 years for each site will provide an adequate level of preparedness among Federal, State and local emergency response agencies.

Costs of  
Implementation:

Based on the results of an analysis presented in NUREG-0553, the staff estimates that typical costs for State and local government programs to achieve upgraded radiological emergency response plans for a 10-mile Emergency Planning Zone are as follows: for a State, the initial costs of planning, exercise, training and resources (communications and radiation monitoring instrumentation) will typically total about \$240,000 with associated annual updating cost

of about \$44,000. For local governments, initial costs will typically total about \$120,000 (considering an average of four jurisdictions) with annual updating costs of about \$30,000. Thus the typical total costs to State and local governments to achieve a favorable finding from NRC in regard to their emergency response plans would be about \$360,000 initial costs, plus \$74,000 in annual updating costs. In addition, the staff estimates a one-time cost of \$500,000 to \$750,000 per facility for the public notification system.

Estimated NRC resources necessary for effective implementation of this regulation are outlined in Enclosure M.

Recommend that  
the Commission:

1. Approve publication in the Federal Register of a notice of Final Rulemaking, (Enclosure "B").
2. Note that all applicants and licensees will be notified of this action.
3. Note that a Final Finding of No Significant Impact will be published in the Federal Register prior to the effective date of this regulation.
4. Note that an environmental assessment is attached as Enclosure "I".
5. Note that clearance of the record keeping and reporting requirements of the amendment by the Government Accounting Office is required. A preliminary value-impact assessment and report justification analysis has been made, (Enclosure "C"). This assessment will be updated and used as the basis for requesting GAO clearance.
6. Note that the Senate Committee on Environmental and Public Works, the House Committee on Interior and Insular Affairs, and the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce will be informed of this action. A sample letter is attached as Enclosure D.

Coordination:

The Offices of Nuclear Material Safety and Safeguards, Inspection and Enforcement, and Nuclear Reactor Regulation concur in the recommendations of this paper. The Office of Public Affairs recommends that a public announcement be issued (see Enclosure "N"). The Executive Legal Director has no legal objection. FEMA concurs with this rule change (see Enclosure O). The Office of Nuclear Regulatory Research has participated in the development of this rule change but will submit comments to the Commission at a later date.

*Robert B. Minoguz*

Robert B. Minoguz  
Office of Standards Development

Enclosures:

- "A" Proposed Rule Changes, Published September 19, 1979 and Proposed Rule Changes Published December 19, 1980
  - "B" Proposed Federal Register Notice
  - "C" Preliminary Value-Impact Assessment
  - "D" Proposed Congressional letter
  - "E" Summary of Public Comments
  - "F" See SECY-80-261
- 
- "G" ACRS comments
  - "H" Proposed FEMA Rule and Policy Statement
  - "I" Environmental Assessment
  - "K" NUREG-0684 Staff evaluation of all public comments received - To be provided at a later date.
  - "L" Analysis of ACRS comments
  - "M" NRC Resources necessary for effective implementation of Regulation
  - "N" Draft Public Announcement
  - "O" Letters from Office Directors and FEMA

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Wednesday, June 18, 1980.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT June 11, 1980, 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.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of June 30, 1980. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

DISTRIBUTION

Commissioners  
Commission Staff Offices  
Exec Dir for Operations  
ACRS  
Secretariat

24. Page 50024, column 2, line 56 is corrected to read, "the payments must, after November 8,".

25. Page 50024, column 3, line 8 is corrected to read, "pursuant to Parts 30 and 32-35 of this chapter, a specific source or byproduct material license issued pursuant to Part 40 of this chapter, a".

26. Page 50025, column 1, line 9 is corrected to read, "produced in conjunction with milling".

27. Page 50025, column 1, line 21 is corrected to read, "produced in conjunction with heap-leaching".

28. Page 50025, column 1, line 32 is corrected to read, "Minor . . . \$760".

29. Page 50025, column 1, line 45 is corrected to read, "Renewal . . . \$4,800".

30. Page 50025, column 1, line 47 is corrected to read, "Major . . . \$1,200".

31. Page 50025, column 1, line 48 is corrected to read, "Minor . . . \$250".

32. Page 50025, column 2, line 2 is corrected to read, "make the amendments to 10 CFR §§ 40.1".

(Secs. 11a.(2), 81, 83, 84, 161b, 161c, 161x, 274; Pub. L. No. 83-703, 88 Stat. 948 et seq. (42 U.S.C. 2014a.(2), 2111, 2113, 2114, 2201b, 2201x, 2021)).

Dated at Washington, D.C., this 13th day of September 1979.

For the Nuclear Regulatory Commission,  
Lee V. Gossick,

Executive Director for Operations.

(FR Doc. 79-2846 Filed 9-19-79; 8:48 am)

BILLING CODE 7590-01-01

#### [10 CFR Parts 50 and 70]

#### Production and Utilization Facility Licensees; 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 November 19, 1979.

**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, NW., 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, § 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

ENCL. A



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. 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 licensees 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 persons 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, NW., Washington, D.C.

#### PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

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 § 50.21(c) and who had not obtained Commission approval of the emergency plans, as described in § 50.34(b)(8)(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 § 50.21(c) and who had not obtained Commission approval of the emergency plans, as described in § 50.34(b)(8)(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 § 50.34(b)(6) 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.

#### PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

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

Dated at Washington, D.C. this 12th day of September, 1979.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-22023 Filed 9-19-79; 8:48 am]

BILLING CODE 7590-01-48

#### DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 18]

#### Annual Report To Shareholders

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Proposed rule.

SUMMARY: This proposed revision incorporates several changes intended to clarify and simplify the form and

content of the annual report to shareholders. Filing requirements are proposed to be deleted. Comment is also requested as to reasons for retaining or deleting the regulation in its entirety.

**DATES:** Written comments must be received on or before November 19, 1979.

**ADDRESSES:** Comments should be addressed to Mr. Rhoger H. Pugh, Director, Coordination Division, Comptroller of the Currency, Washington, D.C. 20219.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rhoger H. Pugh, Director, Coordination Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1587.

**SUPPLEMENTARY INFORMATION:** The Comptroller of the Currency presently has a regulation, 12 CFR Part 18, requiring certain national banks to distribute annual reports to their shareholders. The present regulation specifies the form of these reports. This proposal would amend the present regulation in the following aspects: (1) It clarifies that banks eligible and electing to use "the small bank call report forms" for statutory reporting purposes (12 U.S.C. 161) may also use those forms to satisfy the requirements for financial statements in their annual reports; (2) copies of annual reports need no longer be provided to the Comptroller or to the appropriate Regional Administrator; and (3) the details of footnote requirements have been replaced by a cross reference to 12 CFR Part 18. In addition, to accommodate situations where a national bank has a small number of shareholders who do not desire an annual report, a new exemptive provision has been added.

Comments are also invited concerning other sections of the proposed regulation and are specifically invited with respect to reasons why this regulation should be retained or deleted in its entirety. It should be noted that corporations and banks, other than national banks, where stock is held by less than 500 shareholders, are not generally required to distribute annual reports to shareholders. It should also be noted that national banks publish certain financial information and such information and other financial information filed by national banks with the Comptroller are available to the public upon request.

**DRAFTING INFORMATION:** The principal drafter of this document was Rhoger H. Pugh, Director, Coordination Division.

#### Proposed Rule

As stated above, the Comptroller proposes to amend 12 CFR Part 18 to read as follows:

#### PART 18—FORM AND CONTENT OF ANNUAL REPORT TO SHAREHOLDERS

Sec.

18.1 Scope and application.

18.2 Financial statements.

18.3 General rules.

Authority: R.S. 324 et seq., as amended (12 U.S.C. 1 et seq.)

##### § 18.1 Scope and application.

This part is issued by the Comptroller of the Currency under the general authority of the National Banking Laws, R.S. 324 et seq., as amended, 12 U.S.C. 1 et seq., and contains rules applicable to the issuance of annual reports by national banks.

(a) Every national bank which is not subject to 12 CFR Part 11 (or which is not a wholly owned subsidiary of a bank holding company, except for directors' qualifying shares) shall mail an annual report to each its shareholders containing, at a minimum, the information required by §§ 18.2 and 18.3 below. Such annual reports shall be mailed to each shareholders at least 10 days prior to the bank's annual meeting, but not later than 60 days after the close of its fiscal year.

(b) A national bank need not prepare and distribute an annual report pursuant to this part for any specific year in which all its shareholders notify the bank in writing that an annual report is not desired.

##### § 18.2 Financial statements.

(a) The annual report shall include the following financial statements for the most recent and immediately preceding fiscal year:

(1) Balance sheet as of the end of the year.

(2) Statement of earnings for the year.

(3) Statement of changes in capital accounts for the year.

(b) A reconciliation of the allowance for possible loan losses shall be furnished for each statement of earnings.

(c) Earnings per share of common stock shall be furnished for each statement of earnings.

(d) The financial statements shall include, either on their face or in accompanying notes, other disclosures necessary for a fair presentation of financial position and results of operations.

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# Proposed Rules

Federal Register

Vol. 44, No. 245

Wednesday, December 19, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## 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 proposed rule changes presented 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 alternative may be adopted. Further alternatives may be adopted as a result of consideration of public comments.

In one alternative (Alternative A), the proposed rule change would not automatically require suspension of operations for lack of concurrence in appropriate State and local government emergency response plans on the date specified in the rule, even if the Commission by that date has not yet determined whether the reactor should be allowed to continue to operate. It would:

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, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for license issuance.

2. For nuclear power reactors already licensed to operate, if appropriate State and local emergency response plans have not received NRC concurrence within 180 days after the effective date of this amendment or by January 1, 1981, whichever is sooner, require the Commission to determine whether to require the licensee to shut down the reactor. If at the 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 may continue operation.

If at that time the Commission cannot make such a finding, then the Commission will order the licensee to show cause why the plant should not be shut down. In cases of serious deficiencies, the order to show cause will be made immediately effective and the licensee would be required to shut down the reactor.

3. For nuclear power reactors already licensed to operate, 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 NRC of withdrawal of its concurrence, require the Commission to determine whether to require the licensee to shut down the reactor. Shut down may 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, that alternative 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 plant should not be shut down. In cases of serious deficiencies, the order to show cause will be made immediately effective and the licensee would be required to shut down the reactor.

In the other alternative (Alternative B), the proposed rule change would

automatically require nuclear power plant shutdown for lack of concurrence in appropriate State and local government emergency response plans on the date specified in the rule unless an exemption is granted by that date. It would:

2. Require NRC concurrence in the appropriate State and local government emergency response plans prior to operating license issuance. However, the Commission can grant an exemption from this requirement if the applicant can demonstrate to the satisfaction of the Commission that 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 license issuance. 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.

2. For nuclear power reactors already licensed to operate, require a licensee to shut down a 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 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. For nuclear power reactors already licensed to operate, require a licensee to shut down a 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 of withdrawal of its concurrence. 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

ENCL. A

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 no 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 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.

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

**DATE:** Comments should be submitted on or before February 19, 1980.

**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, 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 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 520/1-78-018, "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 FR 61123 (October 23, 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 regulations.<sup>1</sup> 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 Commission consideration of issues such as this.<sup>2</sup> Both versions of the proposed amendments call for State and local government emergency response plans

<sup>1</sup> Two NRC staff guidance documents are related to this proposed rule change. "Draft Emergency Action Level Guidelines for Nuclear Power Plants," NUREG-0810 was published for interim use and comment on September 18, 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 updated and revised acceptance criteria for evaluating emergency preparedness plans will be issued for comment and may be included in the Commission's regulations.

<sup>2</sup> 44 FR 65048 (November 9, 1979).

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 where the 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, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons. If there is no concurrence 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.<sup>3</sup> However, in the past, the NRC has not made NRC concurrence in State and local emergency response plans a condition of operation for a nuclear powerplant; the proposed rule would do so, as explained above.

<sup>3</sup> NRC staff guidance for the preparation and evaluation of State and local emergency response plans leading to NRC concurrence is contained in NUREG 75/113, "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 codification 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 powerplant. 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 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 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 protected within the framework of the Atomic Energy Act only if additional attention is given to emergency response planning. The Commission recognizes that the increment of risk involved in operation of reactors over the prescribed times in the implementation of this rule does not constitute an unacceptable risk to the public health and safety.

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, "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. 98-413, "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 lend 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, by 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, the 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.

In developing these proposed rule changes, the Commission has considered the potential consequences, social and economic, as well as safety, of the shutdown of an operating nuclear power plant. Under both alternatives, the substantive criteria to be applied in evaluating whether or not a licensee should be allowed to continue to operate the reactor are the same. Thus, both alternatives reflect the view that, while emergency planning is important for public health and safety, the increment of risk involved in permitting operation for a limited time in the absence of concurred-in plans may not be undue in every case.

However, the alternative rule changes differ primarily in the course of action that would follow either non-concurrence, lack of concurrence, or withdrawal of concurrence in relevant State or local emergency plans. Under one alternative (Alternative A) an order to show cause why the licensee should not shut down the plant may be issued in this circumstance, but the order to show cause would not be made immediately effective unless the Commission decided in the particular cases that the safety risks were sufficiently serious to warrant such

immediate action. Under the other alternative (Alternative B), the licensee would be required to shut down the plant immediately in this circumstance. Unless and until an exemption is granted, the licensee will not be allowed to operate the reactor.

The NRC contemplates that under Alternative A initial concurrence and subsequent withdrawal, if necessary, would be noted in local newspapers. Under Alternative B, public notice of any initial concurrence or withdrawal of concurrence would be made both in the Federal Register and in local newspapers. Notices in the Federal Register and in local newspapers will also be provided of any required suspension of operation, any request for an exemption from this requirement, and any request that an operating licensee be exempt from the requirement for concurred-in plans. 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, 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, DC, and at local Public Document Rooms.

#### PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. Paragraph (g) of § 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 State and local governmental entities in the United States that are wholly or partially within the plume exposure pathway Emergency Planning Zone (EPZ), as well as the plans of State governments wholly or partially within the ingestion pathway EPZ.<sup>1</sup> Generally, the plume exposure pathway EPZ for nuclear power 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 surrounding a particular nuclear power 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.

2. A new § 50.47 is added. Alternative versions of the first paragraph are presented.

#### § 50.47 Emergency plans.

[Alternative A: (a) No operating license for a nuclear power reactor will be issued unless the emergency response plans submitted by the applicant in accordance with § 50.33(g) have been reviewed and concurred in by the NRC.<sup>2</sup> 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, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit operation.] OR

[Alternative B: (a) No operating license for a nuclear power reactor will be issued unless the emergency response plans submitted by the applicant in accordance with § 50.33(g) have been reviewed and concurred in by the NRC.<sup>2</sup> An applicant may request an exemption from this requirement based

<sup>1</sup> Emergency Planning Zones (EPZs) are discussed in NUREG-0390, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants."

<sup>2</sup> 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.

upon a demonstration by the applicant that any 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 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.]

(b) Generally, the plume exposure pathway EPZ for 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 surrounding a particular nuclear power 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.

3. Section 50.54 is amended by adding four new paragraphs, (s), (t), (u) and (v). Alternative passages for paragraphs (s) and (t) are provided:

§ 50.54 Conditions of licenses.

(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 State and local governmental entities in the United States that are wholly or partially within the plume exposure pathway EPZ, as well as the plans of State governments wholly or partially within the ingestion pathway EPZ.<sup>1</sup> Generally, the plume exposure pathway EPZ for nuclear power 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 for a particular nuclear power 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 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, the reactor in question will be shut down. The licensee may request an exemption from this requirement based upon a demonstration that any 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.] OR [Alternative B: 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 reactor in question will be shut down until the concurrences have been obtained. The licensee may request an exemption from this requirement based upon a demonstration that any 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. However, unless and until this exemption has been granted by the Commission, the plant shall be maintained in the shutdown condition.]

[Alternative A: (t) If, after 180 days following the effective date of these amendments or January 1, 1981, whichever is sooner, and 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, the Commission will make a determination whether the reactor shall be shut down until the plan is submitted and has again received NRC review and concurrence. The reactor need not be shut down if the licensee can demonstrate to the Commission's satisfaction 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.] OR

[Alternative B: (t) If, after 180 days following the effective date of these amendments or after 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, the reactor in question will be shut down. The licensee may request an exemption from this requirement based upon a demonstration that any 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. However, unless and until this exemption has been granted by the Commission, the plant shall be maintained in the shutdown condition.]

(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.

(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.

4. 10 CFR Part 50, Appendix E, is amended as follows:

Appendix E—Emergency Planning and Preparedness for Production and Utilization Facilities<sup>1</sup>

I. Introduction

Each applicant for a construction permit is required by § 50.34(a) to include in its

<sup>1</sup> NRC staff has developed three regulatory guides: 1.101, "Emergency Planning for Nuclear Power Plants," 1.4, "Emergency Planning for Research Reactors," and 1.42, "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



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 hazards to the public associated with the operation of research and test reactors are considerably less than those involved with nuclear power reactors. 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 2.9 as a standard for acceptance. State and local government emergency response plans, which may include the plans of offsite 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 Zones<sup>2</sup> (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;

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 EPZ to protect health and safety; or D. Protective 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; 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;

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).] OR

[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).]

## 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;

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

Footnotes continued from last page § 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.

<sup>2</sup>The 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-0306. The size of the EPZ's for non-power reactors shall be determined on a case-by-case basis.

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 the 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 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 Zones<sup>3</sup> (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 instructions<sup>4</sup>

to the public 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.

#### 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 technical support center and one near-site emergency operation 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:

- 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:

public within the plume exposure pathway EPZ within 15 minutes of the notification by the licensee of local and State officials.

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.
- 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 the effective date of this amendment and once every (Alternative A: three years) or (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 (Alternative A: three years) or (Alternative B: 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

No less than 180 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. Provided that, in cases where the operating license is

<sup>4</sup> It is expected that the capability will be provided to essentially complete alerting of the

scheduled to be issued less than 180 days after the effective date of this rule, such implementing procedures shall be submitted as soon as practicable. Within 60 days after the effective date for compliance under § 50.54(v) with the revised Appendix E, 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.

(Sec. 181, Pub. L. 93-703, 88 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1242, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5341).)

Dated at Washington, D.C. this 13th day of December 1979.

For the Nuclear Regulatory Commission,  
Samuel J. Chilk,  
Secretary of the Commission.

[FR Doc. 79-3804 Filed 12-19-79; 9:45 am]  
BILLING CODE 7590-01-01

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

#### 10 CFR Part 570

[Docket No. ERA-R-79-54]

#### Standby Gasoline Rationing Plan

**AGENCY:** Economic Regulatory Administration, Department of Energy.  
**ACTION:** Notice of Additional Public Hearing.

**SUMMARY:** On December 7, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking and public hearings to receive comments on its proposed Standby Gasoline Rationing Plan (44 FR 70799, December 10, 1979). Public hearings are scheduled for Boston, MA, San Francisco, CA, Chicago, IL, New Orleans, LA and Washington, DC.

The purpose of this notice is to schedule a additional public hearing on the proposed Standby Gasoline Rationing Plan in Seattle, WA.

**DATE:** Hearing: January 3 and 4, 1980, beginning at 9:30 a.m. Requests to speak must be received by December 28, 1979.

**ADDRESSES:** Hearing location: New Federal Building, 915 2nd Avenue, South Auditorium (4th Floor), Seattle, WA 98174.

Requests to speak should be addressed to: Department of Energy, Attn: Janet Marcan, 1992 Federal Building, 915 2nd Avenue, Seattle, WA 98174.

**FOR FURTHER INFORMATION CONTACT:** Benton F. Massell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7112, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-7303.

Issued in Washington, D.C., December 13, 1979.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79-3804 Filed 12-19-79; 10:36 am]

BILLING CODE 9450-01-01

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 210

[Reg. J; Docket No. R-0266]

#### Collection of Checks and Other Items and Transfer of Funds

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rules.

**SUMMARY:** By this action the Board proposes to clarify and simplify its regulations on the collection of checks and other items and for wire transfers of funds. It is not intended that any substantive changes be made in the duties and responsibilities that are set forth in these regulatory provisions.

**DATE:** Comments must be received on or before February 15, 1980.

**ADDRESS:** Comments, which should refer to Docket No. R-0266, may be mailed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to Room E-2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in section 251.8(a) of the Board's Rules Regarding Availability of Information (12 CFR 251.8(a)).

**FOR FURTHER INFORMATION CONTACT:** Lee S. Adams, Senior Attorney (202/452-3594), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** As part of its Regulatory Improvement Project, the Board has reviewed the regulatory framework for the collection of checks and other items and for wire transfers of funds that are set forth in Subparts A and B of Regulation J. The Board has determined that, while substantive changes in the regulation were not required, it was desirable to redraft the regulation to clarify and simplify the language. In redrafting Regulation J, the

Board was aware that much of the terminology of the regulation is common and legally recognized through its consistency with the Uniform Commercial Code. Although language improvements were made to achieve brevity and clarity, care was taken not to alter legal concepts through stylistic change.

The Board notes that the revised material was drafted to conform generally with the new part of Regulation J, Subpart C (Automated Clearing House Items) which the Board recently approved for public comment (44 FR 87995). Only minor editorial changes will be required to conform a final version of Subpart C with the revised Subparts A and B.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors. The proposal is made under the authority of sections 11 and 16 of the Federal Reserve Act (12 U.S.C. 248 (j), (o)), which authorize the Board to promulgate rules governing the transfers of funds through Federal Reserve Banks. To aid in the consideration of this material by the Board, interested persons are invited to submit relevant data, views, comments, or arguments.

To implement its proposal, the Board is considering amending Regulation J (12 CFR Part 210) as set forth below:

[Reg. J]

### PART 210—COLLECTION OF CHECKS AND OTHER ITEMS AND WIRE TRANSFERS OF FUNDS

#### Subpart A—Collection of Checks and Other Items

Sec.

- 210.1 Authority, purpose, and scope.
- 210.2 Definitions.
- 210.3 General provisions.
- 210.4 Sending items to Reserve Banks.
- 210.5 Sender's agreement; recovery by Reserve Bank.
- 210.6 Status, warranties, and liability of Reserve Bank.
- 210.7 Presenting items for payment.
- 210.8 Presenting noncash items for acceptance.
- 210.9 Payment.
- 210.10 Time schedule and availability of credits for cash items.
- 210.11 Availability of proceeds of noncash items; time schedule.
- 210.12 Return of cash items.
- 210.13 Chargeback of unpaid items.
- 210.14 Extension of time limits.

#### Subpart B—Wire Transfer of Funds

- 210.25 Authority, purpose, and scope.
- 210.26 Definitions.
- 210.27 General provisions.
- 210.28 Media for transfer items and requests.

## NUCLEAR REGULATORY COMMISSION

10 CFR Part 50 and Part 70

## EMERGENCY PLANNING

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Final Rule

SUMMARY: On September 19, 1979 and on December 19, 1979, the Commission published for public comment (44 FR 54308 and 44 FR 75167) proposed amendments to its emergency planning regulations for production and utilization facilities. Extensive comments were received, all of which were evaluated and considered in developing the final rule. The comments received and the staff's evaluation is contained in NUREG-0684. In addition, the NRC conducted four Regional Workshops to solicit comments; these comments are available in NUREG/CP-0011 (April 1980).\*

The final regulation contains the following elements:

1. In order to continue operations or to receive an operating license an applicant/licensee will be required to submit their emergency plans, as well as State and local governmental emergency response plans to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency. The NRC will base its finding

\*Copies of NUREG documents are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies 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.

on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the licensee's/applicant's emergency plans are adequate and capable of being implemented.

2. Emergency planning considerations will be extended to "Emergency Planning Zones,"
3. Detailed emergency plan implementing procedures of licensees/applicants will be required to be submitted to NRC for review, and
4. Requirements in 10 CFR Part 50, Appendix E are clarified and upgraded.

EFFECTIVE DATE: 75 days after publication

NOTE: The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review of the reporting requirements in the rule, pursuant to the Federal Reports Act, as amended (44 U.S.C. 3512). The date on which the reporting requirements of the rule become effective includes a 45-day period, which the statute allows for Comptroller General review (44 U.S.C. 3512(c)2)).

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 ensuring the continued protection of the public health and safety in areas around nuclear power facilities. The Commission began this reconsideration in recognition of the need for more effective emergency planning and in

response to reports issued by responsible offices of government and the NRC's Congressional oversight committees.

On December 19, 1979, the Nuclear Regulatory Commission published in the Federal Register (44 FR 75167) proposed amendments to 10 CFR Part 50 and Part 50, Appendix E of its regulations. Publication of these final rule changes in the Federal Register is not only related to the December 19, 1979 proposed rule changes but also incorporates the proposed changes to 10 CFR Parts 50 and 70 (44 FR 54308) published on September 19, 1979. Interested persons were invited to submit written comments/suggestions in connection with the proposed amendments within 60 days after publication in the Federal Register. During this comment period (in January 1980) the Commission conducted four regional workshops with appropriate State and local officials, utility representatives, and the public to discuss the feasibility of the various portions of the proposed amendments, their impact, and the procedures proposed for complying with their provisions. The NRC used the information from these workshops along with the public comment letters to develop the final rule (more than 170 comment letters were received and the points made in two petitions for rulemaking were included in considerations).

After evaluating all public comment letters received and all the information obtained during the workshops as well as additional reports such as the NRC Special Inquiry Group Report, the Commission has decided to publish the final rule changes described below.

#### Description of Final Rule Changes

The Commission has decided to adopt a version of the proposed rules known as alternative A described in sections 50.47 and 50.54 in the Federal

Register Notice dated December 19, 1979, (44 FR 75167), as modified in light of comments. Those rules, when effective, will provide that no power reactor may operate if there is an NRC finding that the overall state of emergency preparedness is inadequate for the reactor in question. This is consistent with the approach outlined by FEMA and NRC in a Memorandum of Understanding (45 FR 5847, January 24, 1980). No new operating license will be granted unless the NRC can make a favorable finding that the integration of onsite and offsite emergency planning provides reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency. In the case of an operating reactor, if it is determined that there are such deficiencies that a favorable NRC finding is not warranted and the deficiencies are not corrected within 4 months of that determination, the Commission will determine whether the reactor should be shut down, pursuant to procedures provided for in 10 CFR 2.200. In any case where the Commission believes that the public health, safety, or interest so requires, the plant will be required to shut down immediately (10 CFR 2.202(f), see 5 U.S.C. 558(c)).

The objectives that the NRC will look to in making its determinations under these rules are set forth in the final regulation. Wherever possible, these objectives may blend with other emergency planning procedures for non-nuclear emergencies presently in existence. The objectives are a restatement of basic NRC and now joint NRC-FEMA guidance to licensees and to State and local governments. See NUREG-0654; FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," (January 1980).

In deciding whether to permit reactor operation in the face of some deficiencies, the Commission will examine whether the deficiencies are significant for the reactor in question or whether alternative compensatory actions have been or will be taken promptly or whether consistent with the public health and safety other compelling reasons exist for reactor operation.

Specifically, the regulation contains the following three major changes from past practices:

1. In order to continue operations or to receive an operating license an applicant/licensee will be required to submit their emergency plans, as well as State and local governmental emergency response plans to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency.

The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented, and on the NRC assessment as to whether the licensee's/applicant's emergency plans are adequate and capable of being implemented. Specifically:

- a. An Operating License will not be issued unless a favorable NRC overall finding can be made.
- b. After January 1, 1981, an operating plant may be required to shut down if it is determined that there are such deficiencies such that a favorable NRC finding cannot be made or is no longer warranted and the deficiencies are not corrected within 4 months of that determination.



2. Emergency planning considerations must be extended to "Emergency Planning Zones," and
3. Detailed emergency planning implementing procedures of both licensees and applicants for operating licenses must be submitted to NRC for review.

In addition, the Commission is 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 regulations. Sections of Appendix E that are expanded include:

1. Specification of "Emergency Action Levels" (Sections IV.B and C),
2. Dissemination to the public of basic emergency planning information (Section IV.D),
3. Provisions for the State and local governmental authorities to have a capability for notification of the public during a serious reactor emergency with a design objective of completing the initial notification within 15 minutes after notification by the license (Section IV.D),
4. A licensee onsite technical support center and a licensee near site emergency operations facility (Section IV.E),
5. Provisions for redundant communications systems (Section IV.E),
6. Requirement for specialized training (Section IV.F), and
7. Provisions for up-to-date plan maintenance (Section IV.G).

Applicants for a construction permit would be required to submit more information as required in the new Section II of Appendix E.

Rationale for the Final Rules

The Commission's final rules are based on its considered judgment about the significance of adequate emergency planning and preparedness to ensure adequate protection of the public health and safety. It is clear, based on the various official reports described in the proposed rules (44 FR at 75169) and the public record compiled in this rulemaking, that onsite and offsite emergency preparedness as well as proper siting and engineered design features are needed to protect the health and safety of the public. As the Commission reacted to the accident at Three Mile Island, it became clear that the protection provided by siting and engineered design features must be bolstered by the ability to take protective measures during the course of an accident. The accident also showed clearly that onsite conditions and actions, even if they do not cause significant offsite radiological consequences, will affect the way the various State and local entities react to protect the public from any dangers, associated with the accident (Ibid). In order to discharge effectively its statutory responsibilities, the Commission firmly believes that it must be in a position to know that proper means and procedures will be in place to assess the course of an accident and its potential severity, that NRC and other appropriate authorities and the public will be notified promptly, and that appropriate protective actions in response to actual or anticipated conditions can and will be taken.

The Commission's organic statutes provide it with a unique degree of discretion in the execution of agency functions. Siegel v. AEC, 400 F.2d 778, 783 (D.C. Cir. 1968), see Westinghouse Electric Corp. v. NRC, 400 F.2d 759, 771 & n.47 (3d Cir. 1979). "Both the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 confer broad regulatory

functions on the Commission and specifically authorize it to promulgate rules and regulations it deems necessary to fulfill its responsibilities under the Acts, 42 U.S.C. § 2201(p)." Public Service Co. of New Hampshire v. NRC, 582 F.2d 77, 82 (1st Cir.), cert. denied, 439 U.S. 1046 (1978). See 42 U.S.C. 2133(a). As the Supreme Court stated almost 20 years ago, the Atomic Energy Act "clearly contemplates that the Commission shall by regulation set forth what the public safety requirements are as a prerequisite to the issuance of any license or permit under the Act," (Power Reactor Development Co. v. International Union of Electrical Radio Machine Workers, 367 U.S. 396, 404 (1961)). Finally, it is also clear that "Congress, when it enacted [42 U.S.C. 2236]..., must have envisioned that licensing standards, especially in the areas of health and safety regulation, would vary over time as more was learned about the hazards of generating nuclear energy. Insofar as those standards became more demanding, Congress surely would have wanted the new standards, if the Commission deemed it appropriate, to apply to those nuclear facilities already licensed," (Ft. Pierce Utilities Authority v. United States, 606 F.2d 986, 996 (D.C. Cir. 1979)).

In response to and guided by the various reports and public comments, as well as its own determination on the significance of emergency preparedness, the Commission has, therefore, concluded that adequate emergency preparedness is an essential aspect in the protection of the public health and safety. The Commission recognizes that there is a possibility that the operation of some reactors may be affected by this rule through inaction of State and local governments or an inability to comply with these rules. The Commission believes that the potential restriction of plant operation by State and local officials is not significantly different in

kind or effect from the ample means already available under existing law to prohibit reactor operation, such as zoning and land-use laws, certification of public convenience and necessity, State financial and rate considerations (10 CFR 50.33(f)) and Federal environmental laws. The Commission notes, however, that such considerations generally relate to a one-time decision on siting that tends to obligate future officials, whereas this rule requires a periodic renewal of State and local commitments to emergency preparedness. At least until more experience is gained with this rule in actual practice, however, the Commission will retain the flexibility of not shutting down a facility until all factors have been thoroughly examined. The Commission believes, based on the record created by the public workshops, that State and local officials as partners in this undertaking will endeavor to provide fully for public protection. Thus, upon consideration of all relevant factors, including its own evaluation of the TMI accident, the Commission promulgates the above-described final rules. In doing so, the Commission adopts the view of the U.S. Court of Appeals for the D.C. Circuit in addressing EPA regulations, that "the statutes -- and common sense -- demand regulatory action to prevent harm, even if the regulator is less than certain that harm is otherwise inevitable." Ethyl Corp. v. EPA, 541 F.2d 1, 25 (D.C. Cir.), cert. denied, 426 U.S. 941 (1976).

#### Summary of Comments on Major Issues

The Commission appreciates the extensive public comments on this important rule. In addition to the record of the workshops, the NRC has received over 170 comment letters on the proposed rule changes. The following major issues have been raised in the comments received. They reflect the areas of concern of most commenters.

**Issue A: NRC REVIEW AND CONCURRENCE IN STATE AND LOCAL RADIOLOGICAL PLANS.**

1. FEMA is best suited to assess the adequacy of State and local radiological emergency planning and preparedness and report any adverse findings to NRC for assessment of the licensing consequences of those findings.
2. The proposed rule fails to provide objective standards for NRC concurrence, reconcurrence, and withdrawal of concurrence.
3. In the absence of additional statutory authority, the proposed rule frustrates Congressional intent to preempt State and local government veto power over nuclear power plant operation.
4. Procedures and standards for adjudication of emergency planning disputes are not adequately specified in the proposed rule.

**Issue B: EMERGENCY PLANNING ZONES (EPZs)**

1. Regulatory basis for imposition of the Emergency Planning Zone Concept should be expressly stated in the regulation.
2. Provisions regarding the plume exposure pathway EPZ should provide a maximum planning distance of ten miles.
3. References to NUREG-0396 should be deleted to avoid disputes over its meaning in licensing proceedings.

**Issue C: ALTERNATIVES A & B (In 50.47 & 50.54)**

1. That neither alternative is necessary because the Commission has sufficient authority to order a plant shut down for safety reasons, and should be prepared to exercise that authority only on a case-by-case basis and when a particular situation so warrants such action.

2. No case has been made by the Commission for the need for automatic shutdown, as would be required in Alternative B, and certainly no other NRC regulations exist that would require such action based on a concept as amorphous as "concurrence in State and local emergency plans."
3. The idea that the Commission might grant an exemption to the rules that would permit continued operation (under Alternative B) has little significance primarily because 10 CFR Part 50.12(a) already permits the granting of exemptions.
4. The process and procedures for obtaining such exemptions are not defined, nor is there any policy indication that would indicate the Commission's disposition to grant such exemptions.
5. The Commission, in developing this aspect of the proposed rule, must consider its own history. There was time when regulation was characterized by the leaders of the agency by simple and very appropriate expressions. The process was to be "effective and efficient." The application of regulatory authority was to be "firm, but fair." Regardless of the outcome of the "concurrence" issue, the Commission must appreciate that Alternative B is not fair. It is not effective regulation

Issue D: PUBLIC EDUCATION.

Only information required to inform the public what to do in the event of a radiological emergency need be disseminated. There

should be flexibility, in any particular case, as to who will be ultimately responsible for disseminating such information.

Issue E: LEGAL AUTHORITY.

1. A few commenters felt that NRC had no authority to promulgate a rule such as the one proposed.
2. Other comments were of the nature that NRC has statutory authority only inside the limits of the plant site.
3. Some commenters suggested that NRC and FEMA should seek additional legislation to compel State and local governments to have emergency plans, if that is what is necessary.

Issue F: SCHEDULE FOR IMPLEMENTATION.

The schedule for implementing the proposed rule was considered to be unrealistic and in some cases in conflict with various State schedules already in existence. A sampling of the comments on the implementation schedule as unrealistic follows:

1. The 180 days in the schedule is an insufficient amount of time to accomplish tasks of this magnitude; the Federal government does not work with such speed. States are bureaucracies also; there is no reason to assume they can work faster. It took years of working with States to get the plans that are presently concurred in. It is just insufficient time for new concurrences and review. Also, to get a job done within that time frame means a hurried job--rather than an acceptable and meaningful plan.

2. The time provided is inadequate for States to acquire the hardware needed. States must go out for competitive bids just as the Federal government does. Between processing and accepting a bid and actual delivery of equipment, it may take a year to get the hardware. Also, the State budgets years ahead. If a State or local government needs more money, it may have to go to the legislature. This is a time-consuming public process that may not fit the Federal schedule.
3. NRC and FEMA could not review 70 or more plans and provide concurrence by January 1, 1981. The Federal government moves slowly. Commenters did not think that NRC and FEMA can review all the plans within the time frame scheduled. If the Federal government cannot meet its schedule, why or how should the States?
4. Funding could not be appropriated by State and local governments before the deadline. It was suggested that the Commission use H. Rept. #96-413 ("Emergency Planning U.S. Nuclear Power Plants: Nuclear Regulatory Commission Oversight") for the time frame rather than that in the proposed rule or use a sliding-scale time frame since States are at various stages of completing their emergency plans.

Issue G: IMPACT OF PROPOSED RULE.

1. The proposed regulations were considered by some commenters as unfair to utilities because it was felt they place the utility in the political and financial role that FEMA should be assuming. NRC is seen as in effect giving State and local



governments veto over the operation of a nuclear plant. It was questioned whether this was an intent of the rule. In addition, it was felt that the utility, its customers, and its shareholders should not be penalized by a shutdown (with a resulting financial burden) because of alleged deficiencies or lack of cooperation by State and local officials.

2. It was suggested that NRC's Office of Inspection and Enforcement conduct the reviews of the State and local governmental emergency response plans in order to ensure prompt, effective, and consistent implementation of the proposed regulations.
3. One commenter noted that the public should be made aware of the issue of intermediate and long-term impacts of plant shutdowns. Specifically, people should be informed of the possibility of "brownouts," cost increases to the consumer due to securing alternative energy sources, and the health and safety factors associated with those alternative sources.

Issue H: PUBLIC NOTIFICATION.

1. Ultimate responsibility for public notification of a radiological emergency must be placed on State and local government.
2. The "fifteen minute" public notification rule is without scientific justification, fails to differentiate between areas close in and further away from the site, and ignores the technical difficulties associated with such a requirement.

Issue I: EMERGENCY ACTION LEVELS.

Applicants, in cooperation with State and local governmental authorities, should be permitted the necessary flexibility to develop

emergency action level criteria appropriate for the facility in question, subject to NRC approval. Inflexible NRC emergency action level standards are not necessary.

Issue J: TRAINING.

1. Mandatory provision for training local services personnel and local news media persons is outside of NRC's jurisdiction and is not necessary to protect the public health and safety.
2. Public participation in drills or critiques thereof should not be required.
3. The provision regarding formal critiques should be clarified to mean the licensee is responsible for developing and conducting such critiques.
4. Definitive performance criteria for evaluation of drills should be developed by the licensee subject to NRC approval.

Issue K: IMPLEMENTING PROCEDURES.

NRC review of implementing procedures is only necessary to advise the NRC staff of the details of the plans for use by the NRC during the course of an actual emergency.

Issue L: FUNDING.

Commenters felt;

1. Nuclear facilities, although located in one governmental tax jurisdiction and taxed by that jurisdiction, affect other jurisdictions that must bear immediate and long-term planning cost without having access to taxes from the facility.
2. As the radius of planning requirements becomes greater, few facilities are the concern of a single county. The planning

radius often encompasses county lines, State lines, and in some instances, international boundaries.

3. As new regulations are generated to oversee the nuclear industry and old ones expanded, there is an immediate need to address fixed nuclear facility planning at all levels of government, beginning at the lowest and going to the highest. All levels of government need access to immediate additional funds to upgrade their response capability.
4. It is well understood that the consumer ultimately must pay the price for planning, regardless of the level in government at which costs are incurred. It becomes a matter of how the consumer will be taxed, who will administer the tax receipts and what is the most effective manner in which to address the problem.
5. The basis for effective offsite response capabilities is a sound emergency preparedness program. Federal support (funding and technical assistance) for the development of State and local offsite capabilities should be incorporated into FEMA's preparedness program for all emergencies.

Issue M: GENERAL.

The States support Federal oversight and guidance in the development of offsite response capabilities. However, many States feel the confusion and uncertainty in planning requirements following Three Mile Island is not a proper environment in which to develop effective capabilities nor does it serve the best interests of their citizens. The development of effective nuclear facility incident response

capabilities will require close coordination and cooperation between responsible Federal agencies, State government, and the nuclear industry. An orderly and comprehensive approach to this effort makes it necessary that onsite responsibilities be clearly identified with NRC and the nuclear industry while deferring offsite responsibilities to State government with appropriate FEMA oversight and assistance.

In addition to these comments, two petitions for rulemaking were filed in reference to the proposed rule. Although the petitions were denied, the comments made by the petitioners in support of their petition were considered in developing the final rule.

The Commission has placed the planning objective from NUREG-0654; FEMA-REP-1 "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment" January 1980, into the final regulations. Comments received concerning NUREG-0654 were available in developing the final regulation. The Commission notes that the planning objectives in NUREG-0654 were largely drawn from 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, which have been in use for some time.

The approximately 60 public comment letters received on NUREG-0654 were not critical of the proposed planning objective. The Commission also notes that at the May 1, 1980 ACRS meeting, the Atomic Industrial Forum representative encouraged the use of the planning objectives from

NUREG-0654 in the final regulations in order to reduce ambiguity and provide specificity to the final regulation.

Based on the above, the Commission has decided to modify the proposed rule changes in the areas discussed in paragraphs I through X below.

I. FEMA/NRC Relationship

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 Inter-agency Central Coordinating Committee for Radiological Emergency Response Planning and Preparedness (FICCC). On December 7, 1979, the President issued a directive assigning FEMA lead responsibility for offsite emergency preparedness around nuclear facilities. The NRC and FEMA immediately initiated negotiations for a Memorandum of Understanding (MOU) that lays out the agencies' roles and provides for a smooth transfer of responsibilities. It is recognized that the MOU, which became effective January 14, 1980, supersedes some aspects of previous agreements. Specifically, the FEMA responsibilities with respect to emergency preparedness as they relate to NRC are:

1. To make findings and determinations as to whether State and local emergency plans are adequate.
2. To verify that State and local emergency plans are capable of being implemented (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualification and equipment adequacy).
3. To assume responsibility for emergency preparedness training of State and local officials.

4. To develop and issue an updated series of interagency assignments that delineate respective agency capabilities and responsibilities and define procedures for coordination and direction for emergency planning and response.

Specifically, the NRC responsibilities for emergency preparedness are:

1. To assess licensee emergency plans for adequacy.
2. To verify that licensee emergency plans are adequately implemented (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications, and equipment adequacy).
3. To review the FEMA findings and determinations on the adequacy and capability of implementation of State and local plans.
4. To make decisions with regard to the overall state of emergency preparedness (i.e., integration of the licensee's emergency preparedness as determined by the NRC and of the State/local governments as determined by FEMA and reviewed by NRC) and issuance of operating licenses or shutdown of operating reactors.

Additional legislation is being considered by Congress that may give FEMA the total role in offsite preparedness, thereby making FEMA's determination not subject to review in NRC licensing proceedings.

In addition, FEMA has prepared a proposed rule regarding "Review and Approval of State Radiological Emergency Plans and Preparedness." According to the proposed FEMA rule, FEMA will approve State and local emergency plans and preparedness, where appropriate, based upon its findings and determinations with respect to the adequacy of State and local plans and the capabilities of State and local governments to effectively implement

these plans and preparedness measures. These findings and determinations will be provided to the NRC for use in its licensing process.

## II. Emergency Planning Zone Concept

The Commission notes that the regulatory basis for adoption of the Emergency Planning Zone (EPZ) concept is the Commission's decision to have a conservative emergency planning policy in addition to the conservatisms already involved in the defense-in-depth philosophy. This policy was endorsed by the Commission in a policy statement published on October 23, 1979, (44 FR 61123). At that time the Commission stated that two Emergency Planning Zones (EPZs) should be established around light water nuclear power plants. The EPZ for airborne exposure has a radius of about 10 miles; the EPZ for contaminated food and water has a radius of about 50 miles. Predetermined protective action plans are needed for the EPZs. The exact size and shape of each EPZ will be decided by emergency planning officials after they consider the specific conditions at each site. These distances are considered large enough to provide a response base which would support activity outside the planning zone should this ever be needed.

The Commission recognized that it is appropriate and prudent for emergency planning guidance to take into consideration the principal characteristics (such as nuclides released and distances likely to be involved) of a spectrum of design basis and core melt accidents. While the Commission recognizes that the guidance may have significant response impacts for many local jurisdictions, it believes that implementation of the guidance is nevertheless needed to improve emergency response planning and preparedness around nuclear power reactors.

### III. Position on Planning Basis for Small Light Water Reactors and Ft. St. Vrain

The Commission has concluded that small light water cooled power reactors (less than 250 Mwt) and the Ft. St. Vrain gas cooled reactor may establish small planning zones which will be evaluated on a case-by-case basis. This conclusion is based on the lower potential hazard from these facilities (lower radionuclide inventory and longer times to release significant amounts of activity in many scenarios). The radionuclides considered in planning should be the same as recommended 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," December 1978.

### IV. Rationale for Alternatives Chosen

In a few areas of the proposed rule, the Commission identified two alternatives that it was considering. Many public comments were received on these alternatives and after due consideration of all comments received as well as the discussions presented during the workshops, the following alternatives have been chosen by the Commission to remain in the final rule.

In Sections 50.47 and 50.54(s) and (t), the alternatives dealt with conditioning the issuance of an operating license or continued operation of a nuclear power plant on the existence of State and local government emergency response plans concurred\* in by NRC. The basic difference between alternatives A and B in these sections was that under alternative A, the proposed rule would require a determination by NRC on issuing a license

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\* See Section V for a discussion concerning "concurrence."



or permitting continued operation of plants in those cases where relevant State and local emergency response plans have not received NRC concurrence. Denial of a license or shutdown of a reactor would not follow automatically in every case. Under alternative B, shutdown of the reactor would be required automatically if the appropriate State and local emergency response plans had not received NRC concurrence within the prescribed time periods unless an exemption is granted.

After careful consideration, the Commission has chosen alternative A for Sections 50.47 and 50.54(s) and (t) primarily because alternative A provides more flexibility to the Commission. Alternative B, however, appears to have the possibility of causing unnecessarily harsh economic and social consequences to State and local governments, utilities and the public. This position is consistent with most of the comments received from State and local governments.

State and local governments which are directly involved in implementing planning objectives of the rule strongly favor alternative A since it provides for a cooperative effort with State and local governments to reflect their concerns and desires in these rules. This choice is responsive to that effort. In addition, the industry was unanimous in its support for this alternative.

In Appendix E, Sections II C and III, alternative A requires an applicant/licensee to outline "...corrective measures to prevent damage to onsite and offsite property," as well as protective measures for the public. Alternative B only addresses protective measures for the public health and safety. The Commission has chosen alternative B because public health and safety should take clear precedence over actions to protect

property. Measures to protect property can be taken on an ad hoc basis as resources become available after an accident.

In Appendix E, under Training, alternative A required a joint Federal, State and local government exercise every 3 years; whereas alternative B requires these exercises to be performed every 5 years at each site. The Commission has chosen alternative B because the Commission is satisfied that the requirement that these exercises be performed every 5 years for each site will provide an adequate level of preparedness among Federal emergency response agencies. In addition, under these regulations, every site is required to exercise annually with local governmental authorities. Likewise, Federal emergency response agencies may have difficulty supporting exercises every 3 years for all of the nuclear facilities that would be required to comply with these rule changes.

#### V. Definition of Plan Approval Process

The term "Concurrence" has been deleted from the proposed regulations and replaced with reference to the actual procedure and planning objectives that NRC and FEMA have agreed upon and are implementing. According to the agreed upon procedure, FEMA will make a finding and determination as to the adequacy of State and local government emergency response plans. The NRC will determine the adequacy of the licensee emergency response plans. After these two determinations have been made, NRC will make a finding in the licensing process as to the overall and integrated state of preparedness.

It was pointed out to the Commission at the workshops and in public comment letters that the term "concurrence" was confusing and ambiguous. Also, there was a great deal of misunderstanding with the use of the term

because, in the past, the obtaining of NRC "concurrence" in State emergency response plans was voluntary on behalf of the States and not a regulatory requirement in the licensing process. Previously too, "concurrence" was State wide rather than site specific.

#### VI. Fifteen Minute Notification

The requirement for the capability for notification of the public within 15 minutes after the State/local authorities have been notified by the licensee has been expanded and clarified. It also has been removed as a footnote and placed in the body of Appendix E. The implementation schedule for this requirement has been extended to July 1, 1981. This extension of time has been adopted because most State and local governments identified to the Commission the difficulty in procuring hardware, contracting for installation, and developing procedures for operating the systems used to implement this requirement.

The Commission is aware that various commenters, largely from the industry, have objected to the nature of the 15-minute notification requirement, indicating that it may be both arbitrary and unworkable.

Among the possible alternatives to this requirement are a longer notification time, a notification time that varies with distance from the facility, or no specified time. In determining what that criterion should be, a line must be drawn somewhere; and the Commission believes that providing as much time as practicable for the taking of protective action is in the interest of public health and safety. The Commission recognizes that this requirement may present a significant financial impact, and that the technical basis for this requirement is not without

dispute. Moreover, there may never be an accident requiring using the 15-minute notification capability; every indication is that there will not. However, the essential rationale behind emergency planning is to provide as additional assurance for the public protection even during such an unexpected event. The 15-minute notification capability requirement is wholly consistent with that rationale.

The Commission recognizes that no single accident scenerio should form the basis for choice of notification capability requirements for offsite authorities and for the public. Emergency plans must be developed that will have the flexibility to ensure response to a wide spectrum of accidents.

Any accident involving severe fuel degradation or core melt which results in significant inventories of fission products in the containment would warrant immediate public notification and a decision, based on the particular circumstances, for appropriate protective action because of the potential for failure of the containment building. In addition, the warning time available for the public to take action may be substantially less than the total time between the original initiating event and the time at which significant radioactive releases take place. Specification of particular times as design objectives for notification of offsite authorities and the public are a means of ensuring that a system will be in place with the capability to notify the public to seek further information by listening to predesignated radio or television stations. The Commission recognizes that not every individual would necessarily be reached by the actual operation of such a system under all conditions of system use. However, the Commission believes that provision of a general alerting system will significantly improve the capability for taking

protective actions in the event of an emergency. The reduction of notification times from the several hours required for street by street notification to minutes will significantly increase the options available as protective actions in severe accident conditions. These actions could include staying indoors for a release that has already occurred or a precautionary evacuation for a potential release thought to be a few hours away. Accidents that do not result in core melt may also cause relatively quick releases for which protective action for the public, at least in the immediate plant vicinity, are desirable.

Some comments received on the proposed rule advocated the use of a staged notification system with quick notification required only near the plant. The Commission believes that the capability for quick notification within the entire plume exposure emergency planning zone should be provided but recognizes that some planners may wish to have the option of selectively actuating part of the system during an actual response. Planners should carefully consider the impact of the added decisions that offsite authorities would need to make and the desirability of establishing an official communication link to all residents in the plume exposure emergency planning zone when determining whether to plan for a staged notification capability.

#### VII. Effective Date of Rules and Other Guidance

Prior to the publication of these amendments, two guidance documents were published for public comment and interim use. These are: NUREG-0610, "Draft Emergency Action Level Guidelines for Nuclear Power Plants," (September 1979) and NUREG-0654; FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness

in Support of Nuclear Power Plants for Interim Use and Comment," January 1980. It is expected that clarified versions of these documents based on public comments received will be issued to assist in defining acceptable levels of preparedness to meet this final regulation. In the interim these documents should continue to be used as guidance.

#### VIII. Hearing Procedures Used in Implementation of These Regulations

Should the NRC believe that the overall state of emergency preparedness at and around a licensed facility is such that there is some question whether a facility should be permitted to operate, the Commission may issue an order to the licensee to show cause, pursuant to 10 CFR 2.202, as to why the plant should not be shut down. This issue may arise, for example, if NRC finds a deficiency in a licensee plan or in the overall state of emergency preparedness.

If the NRC decides to issue an order to show cause, it will provide the licensee the opportunity to demonstrate to the Commission's satisfaction that the alleged deficiencies are not significant for the plant in question, that alternative compensating means are being or have been taken to protect the public health and safety, or that other compelling circumstances exist to permit operation. Finally, pursuant to 10 CFR 2.202(f), the Commission may, in appropriate circumstances, make the order immediately effective, which could result in immediate plant shut down subject to a later hearing.

#### IX. Funding

In view of the requirements in these rule changes regarding the actions to be taken in the event State and local government planning and preparedness are or become inadequate, a utility may have an incentive,

based on its own self interest as well as its responsibility to provide power, to assist in providing manpower, items of equipment, or other resources that the State and local governments may need but are themselves unable to provide. The Commission believes that in view of the President's Statement of December 7, 1979, giving FEMA the lead role in offsite planning and preparedness, the question of whether the NRC should or could require a utility to contribute to the expenses incurred by State and local governments in upgrading and maintaining their emergency planning and preparedness (and if it is to be required, the mechanics for doing so) is beyond the scope of the present rule change. It should be noted, however, that any direct funding of State or local governments for emergency preparedness purposes by the Federal government would come through FEMA.

X. Exercises

In FEMA's proposed rulemaking "Review and Approval of State Radiological Emergency Plans and Preparedness" the provisions of Section F of Appendix E concerning Exercises will be implemented as follows:

A. On an annual basis, all commercial nuclear power facilities will be required by NRC to exercise their plans and the exercises should involve annual exercising of the appropriate local government plans in support of these facilities. The State may choose to limit its participation in exercises at facilities other than the facility (site) chosen for the annual exercise(s) of the State plan.

B. For continued FEMA approval each State and appropriate local governments shall conduct an exercise jointly with a commercial nuclear power facility annually. However, States with more than one facility (site) shall schedule exercises such that each individual facility (site)

is exercised in conjunction with the State and appropriate local government plans not less than once every three years for sites with the plume exposure pathway EPZ partially or wholly within the State and not less than once every five years for sites with the ingestion exposure pathway EPZ partially or wholly within the State. The State shall choose, on a rotational basis, the site(s) at which the required annual exercise(s) is to be conducted, and priority shall be given to new facilities seeking an operating license from NRC, and which have not had an exercise involving the State plan at that facility site.

C. After FEMA approval of a State plan has been granted, failure to exercise the State plan at least once each year shall be grounds for withdrawing FEMA approval.

The Commission has determined under the criteria in 10 CFR Part 51 that an environmental impact statement for the amendments to 10 CFR Part 50 and Appendix E thereof is not required. This determination is based on "Environmental Assessment for Final Changes to 10 CFR Part 50 and Appendix E of 10 CFR Part 50, Emergency Planning Requirements for Nuclear Power Plants" (NUREG-0685, June 1980). Comments on the "Draft Negative Declaration; Finding of No Significant Impact (45 FR 3913, January 21, 1980) were considered in the preparation of NUREG-0685.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 552 and 553 of Title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 50 and 70 are published as a document subject to codification.



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 State and local governmental entities in the United States that are wholly or partially within the plume exposure pathway Emergency Planning Zone (EPZ)<sup>1</sup>, as well as the plans of State governments wholly or partially within the ingestion pathway EPZ. Generally, the plume exposure pathway EPZ for nuclear power reactors shall consist of an area about 10 miles (16 Km)\* in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 Km)\* in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power 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 size of the EPZ's also may be determined on a case-by-case basis for gas cooled reactors and for reactors with an authorized power level less than 250 MW thermal.\* The plans for the ingestion pathway shall focus on

<sup>1</sup>Emergency Planning Zones (EPZs) are 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," December 1978.

\*Comparative text to regulations published for public comment on December 19, 1979. Deletions are lined through and additions are underscored. In Sections 50.33, 50.47, and 50.54, Alternative B has been deleted but not lined through.

such [~~less immediate~~] actions as are appropriate to protect the food ingestion pathway.

2. A new section 50.47 is added.

§ 50.47 Emergency plans.

(a) No operating license for a nuclear power reactor will be issued unless [~~the emergency response plans submitted by the applicant in accordance with section 50.33(g) have been reviewed and concurred in by the NRC;<sup>2</sup> 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; that alternative compensating actions have been or will be taken promptly; or that there are other compelling reasons to permit operation;~~] a finding is made by NRC that the state of onsite and offsite emergency preparedness provides reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency.

The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the [~~licensee's~~] applicant's onsite emergency plans are adequate and capable of being implemented.

(b) The onsite and offsite emergency response plans for nuclear power reactors must meet the following objectives:<sup>2</sup>

<sup>2</sup>These objectives are addressed by specific criteria in NUREG-0654; FEMA-REP-1 titled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," January 1980.

1. Primary responsibilities for emergency response by the nuclear facility licensee, and by State and local organizations within the Emergency Planning Zones have been assigned, the emergency responsibilities of the various supporting organizations have been specifically established, and each principal response organization has staff to respond and to augment its initial response on a continuous basis.

2. On-shift facility licensee responsibilities for emergency response are unambiguously defined, adequate staffing to provide initial facility accident response in key functional areas is maintained at all times, and timely augmentation of response capabilities is available, and the interfaces among various onsite response activities and offsite support and response activities are specified.

3. Arrangements for requesting and effectively using assistance resources have been made, arrangements to accommodate State and local staff at the licensee's near-site Emergency Operations Facility have been made, and other organizations capable of augmenting the planned response have been identified.

4. A standard emergency classification and action level scheme, whose bases include facility system and effluent parameters, is in use by the nuclear facility licensee, and State and local response plans call for reliance on information provided by facility licensees for determinations of minimum initial offsite response measures.

5. Procedures have been established for notification, by the licensee, of State and local response organizations and for notification of emergency personnel by all response organizations; the content of initial and followup messages to response organizations and the public has been established; and means to provide early notification and clear instruction

to the populace within the plume exposure pathway Emergency Planning Zone have been established.

6. Provisions exist for prompt communications among principal response organizations to emergency personnel and to the public.

7. Information is made available to the public on a periodic basis on how they would be notified and what their initial actions should be in an emergency (e.g., listening to a local broadcast station and remaining indoors) ; the principal points of contact with the news media for dissemination of information during an emergency (including the physical location or locations) are established in advance; and procedures for coordinated dissemination of information to the public are established.

8. Adequate emergency facilities and equipment to support the emergency response are provided and maintained.

9. Adequate methods, systems, and equipment for assessing and monitoring actual or potential offsite consequences of a radiological emergency condition are in use.

10. A range of protective actions has been developed for the plume exposure pathway EPZ for emergency workers and the public, guidelines for the choice of protective actions during an emergency, consistent with Federal guidance, are developed and in place, and protective actions for the ingestion exposure pathway EPZ appropriate to the locale have been developed.

11. Means for controlling radiological exposures, in an emergency, are established for emergency workers. The means for controlling radiological exposures shall include exposure guidelines consistent with EPA Emergency Worker and Lifesaving Activity Protective Action Guides.

12. Arrangements are made for medical services for contaminated injured individuals.

13. General plans for recovery and reentry are developed.

14. Periodic exercises are (will be) conducted to evaluate major portions of emergency response capabilities, periodic drills are (will be) conducted to develop and maintain key skills; deficiencies identified as a result of exercises or drills are (will be) corrected.

15. Radiological emergency response training is provided to those who may be called on to assist in an emergency.

16. Responsibilities for plan development and review and distribution of emergency plans are established and planners are properly trained.

(c) Failure to meet the objectives set forth in paragraph (b) of this subsection may result in the Commission declining to issue an Operating License. However, 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, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit plant operation.

Generally, the plume exposure pathway EPZ for nuclear power plants shall consist of an area about 10 miles (16 Km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 Km) in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power 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 size of the EPZs also may be determined on a case by case basis for gas cooled nuclear reactors and

for reactors with an authorized power level less than 250 MW thermal.

The plans for the ingestion pathway shall focus on such [~~less-immediate~~] actions as are appropriate to protect the food ingestion pathway.

3. Section 50.54 is amended by adding five new paragraphs, (q), (r), (s), (t), and (u).

§ 50.54 Conditions of licenses.

\* \* \* \* \*

(q) A licensee authorized to possess and/or operate a production and utilization facility shall follow and maintain in effect emergency plans which meet the objectives in 50.47(b) and the requirements in Appendix E of this Part. The licensee may make changes to these 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 objectives of 50.47(b) and the requirements of Appendix E of this Part. Proposed changes that decrease the effectiveness of the approved emergency plans shall not be implemented without application to and approval by the Commission. The licensee shall furnish 3 copies of each proposed change for approval; if a change is made without prior approval, 3 copies shall be submitted within 30 days after the change is made or proposed to the Director of the appropriate NRC regional office specified in Appendix D, Part 20 of this Part, with 10 copies to the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(r) Each licensee who is authorized to possess and/or operate a research or test reactor facility with an authorized power level greater than or equal to 500 kW, under a license of the type specified in § 50.21(c), shall submit emergency plans complying with 10 CFR Part 50, Appendix E

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 § 50.21(c), shall submit emergency plans complying with 10 CFR Part 50, Appendix E, to the Director of Nuclear Reactor Regulation for approval within two years from the effective date of this amendment.

(s) Each licensee who is authorized to possess and/or operate a nuclear power reactor shall submit to NRC within 60 days of the effective date of this amendment the radiological emergency response plans of State and local governmental entities in the United States that are wholly or partially within a plume exposure pathway Emergency Planning Zone (EPZ), as well as the plans of State governments wholly or partially within an ingestion pathway EPZ<sup>1</sup>. 10 copies of the above plans shall be forwarded to the Director of Nuclear Reactor Regulation with 2 copies to the Director of the appropriate NRC regional office. Generally, the plume exposure pathway EPZ for nuclear power reactors shall consist of an area about 10 miles (16 Km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 Km) in radius. The exact size and configuration of the EPZs for a particular nuclear power 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 size of the EPZs also may be determined on a case-by-case basis for gas

<sup>1</sup>Emergency Planning Zones (EPZs) are discussed in NUREG-0396; EPA 521/1-78-016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants," December 1978.

cooled nuclear reactors and for reactors with an authorized power level less than 250 MW thermal. The plans for the ingestion pathway EPZ shall focus on such actions as are appropriate to protect the food ingestion pathway.

For operating power reactors, the licensee's and State and local emergency response plans shall be implemented by January 1, 1981, except as provided in Section IV, D 3 of Appendix E, of this Part. If, after January 1, 1981, the NRC finds that the state of emergency preparedness does not provide reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency and the deficiencies are not corrected within four months of that finding, the Commission will determine whether the reactor shall be shut down until such deficiencies are remedied. The reactor need not be shut down subsequent to the four-month period if the licensee can demonstrate to the Commission's satisfaction 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, or that there are other compelling reasons for continued operation.

The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented, and on the NRC assessment as to whether the licensee's emergency plans are adequate and capable of being implemented.

(t) A nuclear power reactor licensee shall provide for the development, revision, implementation, and maintenance of its emergency preparedness program. To this end, the licensee shall provide for a [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 an evaluation for adequacy of interfaces with State and local governments and [~~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 retained [~~kept-available-at-the-plant-inspection~~] for a period of five years. The part of the review involving the evaluation for adequacy of interface with State and local governments shall be available to the appropriate State and local governments.

(u) Within [~~180~~] 60 days after the effective date of [~~the-final-rules-or-by~~] this amendment, each nuclear power reactor licensee [~~who-is-authorized-to-possess-and/or-operate-a-production-or-utilization-facility~~] shall submit to NRC plans for coping with emergencies that meet the objectives in Section 50.47(b) and the requirements of Appendix E of this [~~Chapter~~] Part.

4. 10 CFR Part 50, Appendix E, is amended as follows:

\* \* \* \* \*

APPENDIX E--EMERGENCY PLANNING AND PREPAREDNESS FOR  
PRODUCTION AND UTILIZATION FACILITIES<sup>1</sup>

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. State and local government emergency response plans shall be submitted with the applicant's emergency plans.

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

The potential radiological hazards to the public associated with the operation of research and test reactors and fuel facilities involve

<sup>1</sup>NRC staff has developed two [~~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 a joint NRC/FEMA report, NUREG-0654; FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants -For Interim Use and Comment," January 1980, [~~and NUREG-0610; -"Draft-Emergency-Level-Action-Guidelines-for-Nuclear-Power Plants"- (September-1979)-to-help-establish-adequate]~~ to provide guidance in developing plans [required-for-pursuant-to-§-50-34-and-this-Appendix] for coping with emergencies. Copies of these documents are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies of these documents 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.

considerations different ~~[less-than-those-involved]~~ than those associated with nuclear power reactors. Consequently, the size of ~~[the]~~ Emergency Planning Zones<sup>2</sup> (EPZs) for facilities other than power ~~[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 will be used as [and-3-42-as-a-standard-for-acceptance] guidance for the acceptability of research and test reactor emergency response plans.

## II. The Preliminary Safety Analysis Report

The Preliminary Safety Analysis Report shall contain sufficient information to ensure the compatibility of proposed emergency plans for both 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, and local jurisdictional boundaries for the Emergency Planning Zones (EPZs) as well as the means by which the objectives of 50.47(b) will be met.

<sup>2</sup>EPZs for power reactors are 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," December 1978. The 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. The size of the EPZs also may be determined on a case-by-case basis for gas cooled nuclear reactors and for reactors with an authorized power level less than 250 MW thermal. Generally, the plume exposure pathway EPZ for ~~[light-water]~~ nuclear power plants with an authorized power level greater than 250 MW thermal shall consist of an area about 10 miles (16 Km) in radius and the ingestion pathway EPZ an area about 50 miles (80 Km) in radius.

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;

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;

C. Protective measure to be taken in the event of an accident within the site boundary and within each EPZ to protect health and safety; [~~corrective-measures-to-prevent-damage-t-onsite-and-offsite-property;~~] 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 of offsite agencies in the event of an emergency;

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 who are not employees of the licensee but whose assistance may be needed in the event of a radiological emergency;

~~[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:]G. A preliminary analysis that 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 nuclear power plant applicant shall perform a preliminary analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations[-], noting major impediments to the evacuation or taking of protective actions.

H. A preliminary analysis reflecting the need to include facilities, systems, and methods for identifying the degree of seriousness and potential scope of radiological consequences of emergency situations within and outside the site boundary, including capabilities for dose projection using realtime meteorological information and for dispatch of radiological monitoring teams within the EPZ's; and a preliminary analysis reflecting the role of the onsite technical support center and of the near-site emergency operations facility in assessing information, recommending protective action, and disseminating information to the public.

### 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, and shall 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.

The plans submitted must include a description of the elements set out in Section IV for the Emergency Planning Zones (EPZs)<sup>2</sup> 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 [~~and minimize damage to property~~].

#### IV. Content of Emergency Plans

The applicant's emergency plans shall contain, but not necessarily be limited to, information needed to demonstrate compliance with the objectives of 50.47(b), including the [following] elements set forth below, i.e. organization for coping with radiation emergencies, assessment action, activation of emergency organization, notification procedures, emergency facilities and equipment, training, maintaining emergency preparedness, and recovery. Nuclear power reactor applicants' emergency response plans will be evaluated using the objectives described in Section 50.47(b).<sup>3</sup> The nuclear power reactor applicant shall also provide an analysis of the time required to evacuate and the taking of other protective actions for various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations.

<sup>3</sup>These objectives are addressed by specific criteria in NUREG-0654; FEMA-REP-1 titled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," January 1980.

## A. ORGANIZATION

The organization for coping with radiological emergencies shall be described, including definition of authorities, responsibilities and duties of individual 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;
  - 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, by position and function to be performed, 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 and function to be performed, 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 how the results will be transmitted to State and local authorities, NRC, [FEMA] and other appropriate governmental entities.

5. Identification, by position and function to be performed, of other employees of the licensee with special qualifications for coping with emergency conditions that 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 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's 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, the Commission, and other Federal agencies, and the emergency action levels that are to be used for determining when and what type of 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 on 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 that involve the alerting or activation of progressively larger segments of the total emergency organization shall be described. The communication steps to be 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 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. The emergency classes defined shall include: (1) notification of unusual events, (2) alert, (3) site area emergency, and (4) general emergency. These classes are further discussed in NUREG 0654; FEMA-REP-1.

#### 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] prompt notification 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 agency, for the Emergency Planning Zones<sup>2</sup> (EPZs).

2. Provisions shall be described for the yearly dissemination to the public, including the transient population, 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 and times required for [of] public notification, and the protective actions planned if an accident occurs, and general information as to the nature and effects of radiation, and a listing of local broadcast stations [network] that will be used for dissemination of information during an emergency.

3. [~~Within 360 days after the effective date of these amendments it is the applicant's responsibility to ensure that such means exist regardless of who implements this requirement;~~] A licensee shall have the capability to notify responsible State and local governmental agencies within 15 minutes after declaring an emergency. The licensee shall demonstrate that the State/local officials have the capability to make the public notification decision promptly on being informed by the licensee of an emergency condition. By July 1, 1981, the licensee shall demonstrate that the administrative and physical means [and the time required shall be described] for alerting and providing prompt instructions to the public within the plume exposure pathway emergency planning zone have been established. The design objective shall be to have the capability to essentially complete the initial notification of the public within the plume exposure pathway EPZ within about 15 minutes after the notification by the licensee that an emergency condition exists that may require such public notification. The responsibility for activating such a public notification system shall remain with the appropriate government authorities.

## 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 physicians and other medical personnel qualified to handle radiation emergencies onsite;
6. Arrangements for transportation of [~~injured-or~~] contaminated injured 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. A [~~one~~] licensee onsite technical support center and a licensee near-site emergency operations [~~center~~] facility 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; each system shall have a backup power source [~~including-redundant-power sources-~~].

All communication plans shall have 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 the function of the governmental agency, these arrangements will include:

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 among the nuclear power reactor control room, the onsite technical support center, and the near-site emergency operations facility; and among the nuclear facility, the principal State and local emergency operations centers, and the field assessment teams. Such communications systems shall be tested annually.

d. Provisions for communications by the licensee with NRC headquarters and NRC Regional Office Operations Centers from the nuclear power reactor control room, the onsite technical support center, and the near-site emergency operations facility. Such communications shall be tested monthly.

#### 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 and/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. Medical support personnel.
- h. Licensee's headquarters support personnel.
- i. Security personnel.
- j. In addition, a radiological orientation training program

shall be made available to local services personnel, e.g., local Civil Defense, local law enforcement personnel, local news media persons.

The plan shall describe provisions for the conduct of [~~yearly-drills~~ and] an emergency preparedness exercise once a year. This exercise is intended to test the adequacy of timing and content of implementing procedures and methods, to test emergency equipment and communication networks, to test the public notification system, and to ensure that emergency organization personnel are familiar with their duties. Such provisions shall specifically include periodic participation by offsite personnel as described above as well as other State and local governmental agencies.

The plan shall also describe provisions for involving ~~[The]~~ Federal ~~[State-and-local]~~ emergency response [organizations] agencies in the emergency preparedness exercise once every 5 years.

The scope of ~~[such-as]~~ this exercise should test as much of the emergency plans as is reasonably achievable without involving ~~[full]~~ mandatory public participation. ~~[Definitive]~~ Performance criteria shall be established for all levels of participation. ~~[To-ensure-an-objective-evaluation]~~ This joint Federal, State, and local government exercise shall be conducted:

1. ~~[For-presently-operating-plants;-initially-within-one-year-of-the-effective-date-of-this-amendment-and-once-every-five-years-thereafter:]~~ For presently operating plants once every five years.

2. For a nuclear power plant for which an operating license is issued after the effective date of this amendment, initially within one year before the issuance of the operating license for full power and once every 5 years thereafter.

Exercises shall be conducted with the following frequency.

Each licensee shall conduct an exercise at each power reactor site annually with the State(s) within the Emergency Planning Zones (EPZs) and with the local government(s) within the plume exposure pathway EPZ. The annual exercise need not include the participation of any State(s) which is/are within the EPZ's of two reactor sites; provided, however, that the annual exercise shall include, at a minimum, participation by any such State(s) within the EPZ's at least every second year. The annual exercise need not include the participation of any State(s) which is/are within the EPZs of three or more power reactor sites; provided, however, that the annual exercise shall include, at a minimum, participation by any such State(s)

within the plume exposure pathway EPZ at least every third year and by any such State(s) within the ingestion pathway EPZ at least every fifth year.

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. TRAINING 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;-when]~~ following an accident, reentry of the facility ~~[it]~~ would be appropriate or when operation ~~[should]~~ could be ~~[continued]~~ resumed shall be described.

#### V. Implementing Procedures

No less than 180 days prior to scheduled issuance of an operating license, ~~[10]~~ 3 copies each of the applicant's detailed implementing procedures for its emergency plan shall be submitted to ~~[NRC-Headquarters and-to]~~ the Director of the appropriate NRC Regional Office with 10 copies to the Director of Nuclear Reactor Regulation. In cases where ~~[the]~~ a decision on an operating license is scheduled ~~[to-be-issued]~~ less than ~~[180-days]~~ one year after the effective date of this rule, such implementing procedures shall be submitted as soon as practicable. ~~[Within 60-days-after-the-effective-date-for-compliance-under-§-9-54(v)-with-the-revised-Appendix-E;]~~ Prior to December 1, 1980, licensees who are authorized to operate a nuclear power facility shall submit ~~[10]~~ 3 copies

each of the licensee's emergency plan implementing procedures [~~to-NRE Headquarters-and~~] to the Director of the appropriate NRC Regional Office with 10 copies to the Director of Nuclear Reactor Regulation. As necessary to maintain them up to date thereafter, [~~10~~] 3 copies each of any changes to these implementing procedures shall be submitted [~~to-NRE Headquarters-and~~] to the same NRC Regional Office with 10 copies to the Director of Nuclear Reactor Regulation within 30 days of such changes.

PART 70-DOMESTIC LICENSING OF  
SPECIAL NUCLEAR MATERIAL

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

§ 70.32 Conditions of licenses

\* \* \* \* \*

(i) Licensees 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, 10 CFR Part 50. The licensee shall furnish 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



that decrease the effectiveness of the approved emergency plan shall not be implemented without prior application to and prior approval by the Commission.

(Sec. 161 b., i., and o., Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1242, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5341).)

Dated at Washington, D.C. this \_\_\_\_\_ day of \_\_\_\_\_ 1980.

For the Nuclear Regulatory Commission.

\_\_\_\_\_  
Samuel J. Chilk  
Secretary of the Commission

## VALUE/IMPACT ANALYSIS

### I. THE PROPOSED ACTION

#### A. Description

The regulation contains the following three major changes from past practices:

1. In order to continue operations or to receive an operating license, an applicant/licensee will be required to submit their emergency plans, as well as State and local governmental emergency response plans to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency. The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the licensee's/applicant's emergency plans are adequate and capable of being implemented.
2. Require that emergency planning considerations be extended to "Emergency Planning Zones"<sup>1</sup> (EPZs) and

<sup>1</sup>EPZs are discussed in NUREG-0396. Generally, the plume exposure pathway EPZ for a light water reactor extends out to about 10 miles from the plant and the ingestion pathway EPZ out to about 50 miles.

3. Require that detailed emergency planning implementing procedures of both licensees and applicants for operating licenses be submitted to NRC for review.

In addition, the staff is 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 regulations.

B. Need for the Proposed Action

The Commission's final rules are based on its considered judgment about the significance of adequate emergency planning and preparedness to ensure adequate protection of the public health and safety. It is clear, based on the various official reports described in the proposed rules (44 FR at 75169) and the public record compiled in this rulemaking, that onsite and offsite emergency preparedness as well as proper siting and engineered design features are needed to protect the health and safety of the public. As the Commission reacted to the accident at Three Mile Island, it became clear that the protection provided by siting and engineered design features must be bolstered by the ability to take protective measures during the course of an accident. The accident also showed clearly that onsite conditions and actions, even if they do not cause significant offsite radiological consequences, will affect the way the various State and local entities react to protect the public from any dangers, associated with the accident (Ibid). In order to discharge effectively its statutory responsibilities, the Commission firmly believes that it must be in a position to know that proper means and procedures will be in place

to assess the course of an accident and its potential severity, that NRC and other appropriate authorities and the public will be notified promptly, and that appropriate protective actions in response to actual or anticipated conditions can and will be taken.

There have also been numerous indications recently that current NRC regulations with respect to emergency planning are inadequate and also require clarification and expansion. For example, several reports have cited criticisms of emergency planning:

1. EPA/NRC Task Force Report "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants" (NUREG-0396, December 1978)
2. GAO Report "Areas Around Nuclear Facilities Should Be Better Prepared for Radiological Emergencies" (EMD-78-110, March 30, 1979)
3. Report of the Siting Policy Task Force - NUREG-0625, August 1979
4. Senate Bill S.562 - involves concurrence and adequacy of State and Local Emergency Plans.
5. Congressional Report - "Emergency Planning Around U.S. Nuclear Power Plants: Nuclear Regulatory Commission Oversight" (House Report 96-413, August 8, 1979).

C. Value/Impact of the Proposed Action

1. NRC

The value of improvements to the emergency planning regulations would be (1) to provide better assurance that the response cap-

abilities of the licensee and State and local governments would function properly in the event of a radiological emergency in order to protect the public health and safety, and (2) to provide more clarified and expanded regulatory bases for the evaluation of applicants' and licensees' emergency planning efforts.

It is estimated that the proposed action will require approximately 91 man-years of NRC effort for FY 81. This manpower requirement was identified in Enclosure M to this Commission paper.

2. Other Government Agencies

Improvements to the emergency planning regulations would contribute to improved State and local emergency response around nuclear power reactors. The impact of implementing this proposed action on State and local agencies would be that a large majority of States would require substantial additional resources. The guidance may have very significant impacts for some local jurisdictions, particularly where planning of this sort has not previously been done.

Based on an analysis performed in NUREG-0553, the staff estimates that typical costs for State and local government programs to achieve upgraded radiological emergency response plans for a 10-mile Emergency Planning Zone are as follows: for a State, the initial costs of planning, exercise, training

and resources (communications and radiation monitoring instrumentation) typically to total about \$240,000 with associated annual updating cost of about \$44,000. For local governments, initial costs typically total about \$120,000 (four jurisdictions) with annual updating costs of about \$30,000. Thus the typical total costs to State and local governments to achieve a positive finding from NRC concurrence in their emergency response plans would be about \$360,000 initial costs, plus \$74,000 in annual updating costs. In addition, the staff estimates a one-time cost of \$500,000 to \$750,000 per facility for the public notification system.

Implementation of the proposed rule changes would have special political, institutional, and economic impact at both State and local levels whenever the plume exposure pathway EPZ encompasses more than one State or locality. In such cases, the unilateral action of one State or locality not to develop an emergency response plan with NRC concurrence could prevent another State or locality from attracting electrical generating capacity needed for economic growth or from continuing to obtain electricity from operating nuclear facilities.

Applicant agencies (e.g., TVA, DOE) would be affected as presented under Section 3 below.

3. Industry

Improvements in the emergency planning regulations would provide more clarified and expanded guidance for the development of applicants' and licensees' emergency plans. It is estimated that the proposed action would require an additional 3 man-years per year per licensee of effort as well as any time or resources which they may provide to assist State and local governments in their emergency planning efforts. A special potential impact of the proposed action is that licenses to operate nuclear power plants now under construction may be delayed and that operating plants may be required to shut down or reduce power levels should relevant State and local plans not receive a positive finding by NRC. Further, the proposed rule changes would heighten the uncertainty concerning nuclear power as a viable energy alternative.

4. Public

Improvements to the emergency planning regulations would provide increased confidence that the health and safety of the public would be protected during a radiological emergency because the response capabilities of the licensee and State and local governments would be in place. A potential impact of the proposed action may be higher costs of electricity when replacement power must be found for nuclear power plants that are not allowed to operate or when industry opts to provide needed capacity with more costly but less controversial energy alternatives.

The proposed upgrade in emergency preparedness will undoubtedly result in a better capability, around nuclear power reactors, to mitigate the consequences of a major accident. These upgraded emergency planning requirements are being promulgated in response to perceived defects in existing emergency planning which are well documented and recognized by the nuclear industry, by the Congress, by the NRC, other agencies of Federal, State, and local government, and by the public. The difficulty arises when the expected improvement in mitigation of accidental radiological hazards to the public around reactors is considered with the risk of such accidents. The expected benefit, in actual numbers of health effects avoided due to improved emergency preparedness is very small when considered with the cost of that improvement.

D. Decision on the Proposed Action

The rule change should be published in the Federal Register.

II. TECHNICAL ALTERNATIVES

Because the rule change is being undertaken to address and resolve the concerns of the Commission, GAO, and Congress, no technical alternatives to their recommendations have been considered.

III. PROCEDURAL ALTERNATIVES

1. Alternative Data Sources

The proposed changes will promulgate new or upgrade reporting and planning requirements. In the case of licensee emergency plans,



there are no valid alternatives to requiring the preparation and submission of emergency response plans by nuclear facility licensees. The same holds true for the requirements for auditing, reporting, and maintaining records of licensee emergency preparedness efforts. The possibility exists that NRC could get State and local emergency plans related to a specific facility from the State and local governments concerned, but there is no mechanism whereby such authorities can be required to prepare and submit plans. For this reason, the NRC has placed the burden of submission of State and local plans on the licensees.

The NRC is required to make a judgment that the state of emergency preparedness (a dynamic condition) around a specific facility is adequate to protect the public health and safety, and that judgment is appropriately based on licensee interaction and cooperation with local authorities. For this reason, it is appropriate that the licensee submit all of the emergency plans required. There may be some required data, such as meteorological demographic information that will be obtained directly from federal agencies for a specific site. The responsibility for arranging for the provision of such data will still rest with the licensee.

2. Other Alternatives Considered

- a. A one-time survey of NRC licensees would not suffice because the state of emergency preparedness around licensed facilities is dynamic, and must stay adequate to protect the public health and safety. The periodic audits, reviews, and exercises of

emergency plans and preparedness proposed are necessary to allow the NRC to gauge the continuing state of preparedness at a licensed facility.

- b. The audits, reviews, and exercises are a form of spot checking or sampling of a dynamic condition. The periodicity on which we require these checks will be subject to change as the upgrade of emergency preparedness proceeds at various types of licensed facilities.
- 3. The number of type of respondents subject to the new requirements is based on the presence at those licensees' facilities of sufficient quantities of radioactive materials to cause offsite doses to people in excess of established protective action guides, in case of a major accident. The present rule changes apply to all nuclear power reactors research and test reactors and to a few major fuel cycle facilities. These facilities are known to meet the dose criteria iterated above.
- d. The requirements set down are necessary to permit NRC staff to analyze the state of emergency preparedness at the affected facilities.
- e. The frequency of reports, audits, and exercises was a judgment made from NRC experience. The periodicity for these requirements may be changed based on results from on going reviews and research.

- f. There are no valid alternative methods of information collection which will result in an immediate upgrade in emergency preparedness at NRC licensed facilities.
- g. Standardized reporting forms or coded data element responses may be applicable to some emergency planning or exercise monitoring. The NRC will allow effective reporting methods proposed by affected licensees.
- h. Extrapolation from known data is not a valid alternative for future reporting. The NRC is using existing data from NRC files in the initial review of licensees that require emergency planning.
- i. The present changes are being issued along with guidance on developing and evaluating licensees and State and local government emergency plans (NUREG-0654). NRC has held regional meetings to discuss the upgraded guidance with the industry, the governments, and the public concerned with emergency preparedness. In addition, NRC review teams are visiting each nuclear power reactor site to review the state of emergency preparedness. The present rule changes are applicable to all licensed nuclear power reactors and to certain major fuel cycle facilities. The NRC expects to require some smaller licensees with less potential for offsite hazards to prepare appropriate

emergency plans, but specific rule changes and criteria will be prepared for these licensees.

The staff is responding to a Commission directive that a rule change be undertaken and promulgated.

#### IV. STATUTORY CONSIDERATIONS

##### A. NRC Authority

The rule change is intended to implement the Atomic Energy Act as amended.

##### B. Need for NEPA Assessment

Since the rule change does represent a major action, as defined by 10 CFR 51.5(a)(10), an environmental assessment is prepared and attached as Enclosure I to this Commission paper. Likewise, a Final Finding of No Significant Impact will be published in the Federal Register prior to the effective date of this regulation.

#### V. RELATIONSHIP TO OTHER EXISTING OR PROPOSED REGULATIONS OR POLICY

These proposed amendments to existing rules are a part of a broader rule-making activity announced in the Federal Register (44 FR 41433, July 17, 1979) in the subject area of emergency planning. Also, certain aspects of the proposed rulemaking, especially the establishment of EPZs, bear a relationship to reactor site criteria (10 CFR Part 100). The Siting Policy Task Force Report, in fact, recommended fixed-distance EPZs. By memorandum dated September 25, 1979, Commissioner Ahearne requested staff views on flexible versus fixed EPZs. H. Denton's memo in response to that

request indicated that emergency planning related to siting should be considered in any rulemaking proceeding leading to revision of 10 CFR Part 100.

Publication of the subject rule change in the Federal Register would supersede and thus eliminate 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). Likewise, publication of the subject rule change incorporates the proposed rule changes published in the Federal Register on September 19, 1979 (44 FR 54308).

#### VI. SUMMARY AND CONCLUSIONS

To proceed expeditiously with publication of the final rule change in the Federal Register.

Draft Congressional Letter

Dear Mr. Chairman:

Enclosed for the information of the Subcommittee on \_\_\_\_\_ are copies of a notice of final rulemaking to be published in the Federal Register. Also, enclosed is a copy of the public announcement that will be released concerning this matter.

On September 19, 1979, the Commission published for public comment (44 FR 54308) proposed amendments to its regulations dealing with the maintaining of emergency plans and requiring that research reactors establish and submit emergency plans to NRC. In December 19, 1979, the Commission also published for public comment (44 FR 75167) proposed amendments for the upgrading of its emergency planning regulations. The comments received and the staff's evaluation are contained in NUREG-0684. In addition, the NRC conducted four Regional Workshops to present the proposed rule changes and solicity comments. These comments are available in NUREG/CP-0011 (April 1980). The staff considered the information received at these workshops and that it submitted comment letters (more than 170 received) in developing the final rule changes.

The rule changes involve the following major changes from past practices:

1. In order to continue operations or to receive an operating license, an applicant's/licensee's will be required to submit their emergency plans, as well as State and local governmental emergency response

Enclosure "D"

plans to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency.

The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the licensee's/applicant's emergency plans are adequate and capable of being implemented. Specifically:

- a. An Operating License will not be issued unless a favorable NRC overall finding can be made.
  - b. After January 1, 1981, an operating plant may be required to shutdown if it is determined that there are deficiencies such that a favorable NRC finding cannot be made or is no longer warranted and the deficiencies are not corrected within 4 months of that determination.
2. Emergency planning considerations must be extended to "Emergency Planning Zones,"

3. Detailed emergency planning implementing procedures of both licensees and applicants for operating licenses be submitted to NRC for review.

In addition, 10 CFR Part 50, Appendix E, "Emergency Plans for Production and Utilization Facilities," is being revised in order to clarify, expand, and upgrade the Commission's Emergency Planning regulations.

Sincerely,

Robert B. Minogue, Director  
Office of Standards Development

Enclosures:

1. Notice of Final Rulemaking
2. Public Announcement





DOCKET LETTER NUMBER		NAME
9	Honroe Ct. Board of Comm., Mich.	No Comments on Rule
10	Minnesota Dept. of Health	Supports Rule (Generally)
11	UHC Naval Products, Comm.	Supports Rule w/changes
12	Harlem County, Florida	Against Rule (Generally)
13	Oaktree Alliance, California	Rule Is Too Restrictive
14	Margaret Bishop, Houston, Texas	Rule Is Not Restrictive Enough
15	Frazier Branson, Northbrook, Ill.	Legal Jurisdiction Is In Question
16	Michigan Dept. of Police	Delete Reference to Alternatives
		Prefers Alternative A (Less Restrictive)
		Prefers Alternative B (More Restrictive)
		Prefers Alt. A/B Some Sections (Perhaps w/changes)
		Concurrence Should Be Joint NRC-FEMA
		Concurrence Should Be FEMA Only
		Need Clear Definitions, Guides, Justifications
		EPZ's Should Be Site Determ.
		EPZ's Too Large
		EPZ's Too Small
		15-min. Alert Time Not Defined
		15-min. Alert Time Not Practical
		Training Not NRC Responsibility
		Public Participation in Drills Necessary (+; -)
		NRC Should Develop Drill Criteria
		Funding Should Be By Utility
		Funding Should Be By Federal Agencies/States
		Rule Could Be Used to Negate National Energy Policy
		Schedule For Implementation Impractical
		Evacuation Impractical In Some Cases
		Plans Should Be Combined w/Overall Disaster Plans
		Rule Based on Incomplete and Interim Guidance-Impractical
		Rule Changes Interfere w/On-Going Planning-Funding
		NRC Should Deal With States
		EMI Inappropriately Used As Basis for Rule Change
		Off-Site Activities Should Be Function of Government
		Public Proceeding Should Be Held on Rule Change











DOCKET LETTER NUMBER	NAME	
57	Glasser Associates Diney, Md.	
58	West Branch Conservation Assn, NY	X
59	Emergency Services and Disaster Agency	(See letter 16)
60	US House of Reps Comm. on Interstate & Foreign Commerce	X
61	RMC, Inc. Wash., D.C.	X
62	Tankee Atomic Co. Mass.	X
63	Wash. Energy Facility Evaluation Council	X
64	Yonkers Chamber of Commerce, Yonkers, N.Y.	X
		No Comments on Rule
		Supports Rule (Generally)
		Supports Rule w/changes
		Against Rule (Generally)
		Rule is Too Restrictive
		Rule is Not Restrictive Enough
		Legal Jurisdiction is In Question
		Delete Reference to Alternatives
		Prefers Alternative A (Less Restrictive)
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		15-min. Alert Time Not Defined
		15-min. Alert Time Not Practical
		Training Not NRC Responsibility
		Public Participation in Drills Necessary (+; -)
		NRC Should Develop Drill Criteria
		Funding Should Be By Utility
		Funding Should Be By Federal Agencies/States
		Rule Could Be Used to Negate National Energy Policy
		Schedule for Implementation Impractical
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		Off-Site Activities Should Be Function of Government
		Public Proceeding Should Be Held on Rule Change

















DOCKET LETTER NUMBER	NAME
121	Unknown Glencoe, Ill.
122	California Off. of Emergency Services
123	Luzerne Co. Civil Defense Council, PA
124	Hon. Tod Reddick Assembly Nevada
125	Maine Bureau of Civil Emergency Preparedness
126	Pennsylvania Emergency Managt. Agency
127	Hon. Lawton Chiles US Senate
128	Comm. Dept. of Envir. Protection
	No Comments on Rule
	Supports Rule (Generally)
	Supports Rule w/changes
	Against Rule (Generally)
	Rule Is Too Restrictive
	Rule Is Not Restrictive Enough
	Legal Jurisdiction Is In Question
	Delete Reference to Alternatives
	Prefers Alternative A (Less Restrictive)
	Prefers Alternative B (More Restrictive)
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	NRC Should Deal With States
	EMI Inappropriately Used As Basis for Rule Change
	Off-Site Activities Should Be Function of Government
	Public Proceeding Should Be Held on Rule Change











161	DOCKET LETTER NUMBER	NAME
161	Minnesota Dept. of Public Safety	
162	Ill. Dept. of Public Safety	
163	New York State Dept. of Health	
164	Connecticut Dept. of Health	
165	Yonkers Atomic Electric, Inc.	
166	General Atomics	
167	Ill. School Board	
168	Dept. of Health, Ill.	
		No Comments on Rule
		Supports Rule (Generally)
		Supports Rule w/changes
		Against Rule (Generally)
		Rule Is Too Restrictive
		Rule Is Not Restrictive Enough
		Legal Jurisdiction Is In Question
		Delete Reference to Alternatives
		Prefers Alternative A (Less Restrictive)
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		NRC Should Deal With States
		EMI Inappropriately Used As Basis for Rule Change
		Off-Site Activities Should Be Function of Government
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PRELIMINARY SUMMARY OF PUBLIC COMMENTS

A. COMMENTS OF FEDERAL GOVERNMENT

1. U.S. House of Representatives, Committee on Interstate and Foreign Commerce, Washington, D.C. (Letter 60, 2/14/80; D 2/15/80).

Comments are general and reflect some of the issues identified in Enclosure B.

"We are compelled to state our strong opposition to NRC's proposed rule on emergency planning (44 Fed. Reg. 75167). Implementation of this proposed rule would seriously hamper commercial use of nuclear power without any significant increase in safety.

"The NRC proposed rule would require the shutdown of operating reactors and prevent the issuance of new operating licenses in those states where state or local emergency plans have not received NRC concurrence. Thus, even though a reactor operator has complied with every requirement of law and directive of the NRC, he could be precluded from operating if the state in which the reactor is located has not promulgated a satisfactory emergency plan.

"State and local emergency response plans are desirable and should be encouraged. These plans are in the best interest of the states and the citizens living near reactors. However, we strongly oppose efforts to impose federal mandatory requirements on the states and to penalize reactor operators and the ratepayers they serve if the state governments are dilatory.

"It is illogical to punish the citizens served by a utility, at a cost of thousands of dollars per day in interest payments and replacement power, for something beyond their control. Furthermore, a rule which would give a governor who wants to preclude nuclear power in his state an opportunity to kill the nuclear option by simply not preparing an emergency plan is idiotic. Although the proposed rule allows an applicant or licensee to operate its reactor by demonstrating to the satisfaction of the NRC that a deficient state or local plan is not significant for its particular plant, this provision does not offer an adequate avenue to licensing. A utility will simply not go nuclear under those circumstances."

2. U.S. House of Representatives, Committee on Science and Technology, Washington, D.C. (Letter 112, 12/20/79; D2/28/80) (Letter 152, 2/15/80; D 3/17/80).

The comments of the entire letter of 12/20/79 (Letter 112) are included in the issues identified in Enclosure B.

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\* Note: Where comments were directed toward a specific facility, the facility shown at the end of synopsis in capital letters; e.g., (ZION).

"I believe that the Congress will have to watch this situation carefully to assure that the NRC develops a sensible rule which must ultimately include some mandatory requirements for the States to prevent anti-nuclear governors from closing nuclear plants or stopping construction."

3. Congressman Ted Weiss News Release (Workshop 1/15/80)

Rules are inadequate to protect safety of people in high-population areas (INDIAN POINT).

4. The Hon. Lawton Chiles, U.S. Senate. (Letter 127, 1/3/80; D 2/28/80).

No comments; forwards letter from Wynne Conner, Sun City, Fla. See F.3. below.

5. Department of Energy, Washington, D.C. (Letter 139, 3/4/80; D 3/17/80).

Comments are similar to several of those in the issues identified in Enclosure B.

"It is not clear that implementation of the proposed rulemaking will result in a net gain in the public health and safety, but it does give rise to the concern that the concurrence concept has the potential to destroy or severely impact the viability of the nuclear option."

6. Federal Emergency Management Agency, Washington, D.C. Region III, Denver, Colorado, and Region V, Battle Creek, Michigan. (Letter 2, 12/27/79; D 1/11/80) (Letter 74, 2/19/80; D 2/20/80) (Letter 140, 3/7/80; D 3/17/80).

Suggests that NRC develop a specific contract with each State involved. "NRC concurrence should be on the basis of completion of the work stated in the contract; any further requirements should be renegotiated."

"Another consideration is that regulation implies authority of one over another. Contracts, on the other hand, imply some quid pro quo and a degree of partnership in an undertaking. This partnership has not been evident to me in the past, but I feel we have a better chance of getting it through the contract approach than through mere changes to bureaucratic regulations." (Region VIII).

The following is quoted from the FEMA, Washington, letter of 2/19/80.

"Concurrence by NRC is nowhere defined in the rule, except by reference to the NRC 1974 Guide and Checklist NUREG 75/111 and Supplement No. 1 of March 15, 1977 (see footnote 1, page 75170).

"Concurrence under the essentially voluntary program NRC conducted in former times with State and local governments is apparently not the same as the one envisioned here under a formal process described

in this proposed rule. NRC now seems to be taking the position that "concurrence" under the old system is essentially inoperative. A new definition must be designed before the rule can make any sense. The States think of it as it existed in the past; clearly NRC has a new and different view of its meaning. This must be spelled out.

"Also, the rule would make one party's rights dependent upon the action of a third party over which that party has no control. This is, in effect, a third party veto. NRC licensees cannot compel State and local governments to expend public money to develop emergency capabilities. This third party veto, it would seem, could be exercised by a State, or under a new guidance, by any county within 10 miles of a nuclear facility even if the governmental jurisdiction is obtaining no benefit from the nuclear facility. This is why before any decision is made "alternate" actions or compensatory actions should be defined. Furthermore, criteria to ascertain the relative significance of each jurisdiction with a "veto" must be established."

#### RECOMMENDATIONS OF FEMA

"In view of the changed (and changing) circumstances, FEMA is of the view that this proposed rule should be treated as if it were a continuation of the Advance Notice of Proposed Rulemaking, initiated July 17, 1979 - 44 FR 41483 (see also June 6 petition, 44 FR 32488), and that, upon consideration of the comments made, and after taking into account the provisions of the Memorandum of Understanding (which in itself expires September 30), and the experience now being gained in applying the criteria to existing State plans, a new proposed rule be developed which will proceed in tandem with rules to be developed by FEMA and NRC to implement their planning and preparedness responsibilities outlined in this report.

"Most specifically, we do not think that essential prerequisites for linking State and local emergency response plans to issuance of a license, or close down a reactor are yet in place. The effectiveness of the NRC rule depends upon having in place a Federal capability to review and assess plans and preparedness in accordance with criteria which have been subjected to public scrutiny, and in accordance with well developed procedures. Further, there should be better definition of "deficiencies" which are "not significant" for the plant in question, or "alternative compensatory actions."

"Poses a number of questions to FEMA, Washington, needing clarification and suggestions made to avoid unnecessary duplication of emergency equipment, etc. Responsibilities are not defined."

"With regard to communications links, primary and backup: on the Federal side Region III NRC has only primary communications which is telephone. The same is true for DOE. Neither has radio capability. The problem is with the requirement for back-up communications system. Please clarify." (Region V).

7. Tennessee Valley Authority, Chattanooga, Tenn. (Letter 102, 2/19/80; D 2/27/80).

Comments are similar to some of those in the issues identified in Enclosure B. Requiring submission of many separate plans from States and local governments is unnecessary and costly overplanning.

8. U.S. Department of Health, Education and Welfare; Public Health Service, Food and Drug Administration, Rockville, Maryland (Letter 199, 4/22/80; D 5/7/80).

"Regulatory requirement should be based on a defined need, rationale for provisions and demonstrated evidence that the proposed action will be effective." This has not been done.

Information available indicates that the cost of development, exercise, and annual revision of plans will greatly exceed that noted by NRC.

"The identified benefit based on NRC judgment, is that the proposed rule would provide increased confidence that the public health and safety would be protected. It is certainly not self-evident that this proposed rule will achieve increased public confidence. In fact, many might conclude that it is actions such as these that are not based on sound principles, which have destroyed the credibility of Federal agencies."

"Notwithstanding that the above observations are substantial, the major problem of the proposed rule involves the philosophic basis of the regulatory approach. Federal regulatory agencies have generally imposed regulatory requirements on the manufacturer, owner or user of a given technology to assure the safety of the public. This has been the regulatory approach used by NRC in the licensure program, as provided under Section 12(a)(?) of the Atomic Energy Act to ". . . establish by regulation or order such standards and instructions to govern the possession and use" (emphasis added) "fissionable and byproduct materials as the Commission may deem necessary or desirable to protect health. . . ."

"To condition the operation of a nuclear power plant on the action of third parties not under the control of the licensee represents a major departure. This would place aspects of continued operation in the hands of a large number of public agencies that have different concerns and priorities than those of the licensed operator. Thus, continued operation may be less than a certainty. Because of the large financial investment in a nuclear power plant (and its public benefit), it is not at all clear that such action is in the public interest."

Conclusion Accordingly, it is suggested that NRC not implement aspects of the proposed rule that would condition nuclear plant operation on the actions of State/local agencies. Rather, NRC should adopt a cooperative approach of working with Federal, State

and local agencies to improve and upgrade radiological emergency response preparedness. Toward this end, NUREG-0654 should be identified as a purely guidance document containing items for consideration by State/local agencies. At the same time, NRC should extract from NUREG-0654 and the proposed rule some items that relate to the operators emergency capability, including aspects such as State/local notification and communications, accident assessment, accident classes, equipment and resources, for inclusion in a new proposed rule that concerns only control over the possession and use.

9. The General Accounting Office

"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. Areas Around Nuclear Facilities Should Be Better Prepared for Radiological Emergencies" (March 30, 1979)."

10. 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.

11. House Report No. 96-414, "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 lend support to the NRC's own efforts to assure that the public is protected. The report recommended that NRC, in a leadership capacity, undertake efforts to upgrade its licensees' emergency plans and State and local plans.

12. The President's Commission on the Accident at Three Mile Island.

"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."

B. COMMENTS OF STATE GOVERNMENTS

1. Pennsylvania, Emergency Management Agency, Harrisburg, Pa. (Letter 126, 2/8/80; D 2/28/80).

The whole program of rule changing is impractical. Suggests that real thought be given to developing a practical implementation program that will follow the publication of formal, clear, and complete rules and guidelines.

Specific comments are similar to those of some of the issues identified in Enclosure B. Suggested amendments are given. "What is meant by 'NRC review'?" A number of terms should be specifically defined:

"reasonably", "implementing procedures", "NRC review", "complete alerting." NRC experiences pertaining to planning deficiencies should be promptly reported to States. Local newspapers and the Federal Register are not adequate for notifying States of adverse actions.

2. Maine (Letter 125, 2/11/80; D 2/28/80; Letter 176, 3/12/80; D 4/7/80). Bureau of Civil Emergency Preparedness, Augusta, Me.

The New York Workshop was productive and informative; look forward to similar programs in the future.

The Emergency Broadcast System should be used. State and local entities are not now equipped to comply with rule. Funding should be by utility and utilities should be relied on for emergency plans.

3. Minnesota

- a. Department of Health, Minneapolis. (Letter 10, 1/17/80; D 1/25/80). Comments were similar to those of the State below.
- b. Department of Public Safety, Division of Emergency Services, St. Paul. (Letter 107, 2/19/80; D 2/27/80) (Also submitted through The Hon. Bill Frenzel, U.S. House of Representatives; Letter 161, 3/7/80; D 3/17/80; and The Hon. Rudy Beschwitz, U.S. Senate; Letter 180, 4/2/80; D 4/7/80).

At the workshop there were contradictions stated by the NRC panel. Comments are similar to some of those in the issues identified in Enclosure B. Alternative B seems more reasonable than Alternative A, but changes in them or a combination may be preferable. Minnesota is currently seeking concurrence on its emergency plan but NRC changes in rules makes the process difficult.

4. Iowa Office of Disaster Services, Des Moines. (Letter 67, 2/7/80; D 2/19/80).

"The State of Iowa strongly objects to the proposed rule change due to the dangerous precedent that would be established by its adoption."

Comments reflect those of the issues identified in Enclosure B and those of other States related to political and jurisdictional considerations. "Nuclear energy is critical to this nation at this time." "Yet one official at community or county level can cause the shut down of a plant, not even in his state, simply through inaction if he is so inclined."

- 5.a. South Carolina, Office of the Governor, Columbia. (Letter 17, 47, 1/31/80; D 2/7/80, D 2/13/80).

Comments are similar to those of the issues identified in Enclosure B in most regards. Comments on funding in the issues identified in Enclosure B were copied from the State's comments. Federal agencies should deal with States, not local jurisdictions.

- 5.b. South Carolina, Emergency Preparedness Division, Off. 7th Adjutant General, Columbia. (Letter 170, 3/18/80; D 4/3/80).

The 15-minute notification requirement is unrealistic. "The South Carolina Emergency Preparedness Division does not have the time, personnel or funds to exercise three or more plants each year." The Governor should determine when and what information is released to the public.

6. Michigan, Emergency Services Division, Department of State Police. (Letter 16, 1/22/80; D 2/7/80). (Assigned by the Governor to comment).

Comments are similar in part to the issues identified in Enclosure B. Emphasis is placed on consideration for notification of the blind, deaf, and non-English-speaking community; and on funding problems.

7. Kentucky, Department of Military Affairs, Frankfort. (1/2 Letter 34, 1/23/80; D 2/7/80).

Comments are generally in favor of the proposed rule. "Two areas that must be addressed at a future date are (1) funding and (2) the off-site monitoring capability of state and local agencies."

8. Virginia, Office of Emergency and Energy Services, Richmond. (Letters 81, 97, 2/11/80; D 2/21/80 and D 2/22/80).

Comments seem to be generally favorable to the proposed rule. Suggested alternative or modified wording is given. Alternative A is preferred. Comments on funding as in the issues identified in Enclosure B are given. One Federal review should suffice, i.e., FEMA.

9. Indiana, Department of Civil Defense and Emergency Management, Indianapolis. (Letter 20, 1/29/80; D 2/7/80).

Comments are generally to the effect of concurrence and preference for Alternative A, with minor exceptions in regard to EPZ's evacuation and dates required for approval. The Department will cooperate wholeheartedly in the mutual goal.

10. Kentucky, Legislative Research Commission, Frankfort. (Letter 4, 12/28/79; D 1/18/80).

Concurs in the proposed rule.

11. Arizona, Division of Emergency Services, Phoenix. (Letters 137, 148, 150, 191, 2/28/80; D 3/4/80 and D 3/17/80, D 5/7/80).

Comments are similar to those of the issues identified in Enclosure B and others with regard to government-utility questions and FEMA.

12. Rhode Island, Defense Civil Preparedness Agency, Providence. (Letter 153, 2/25/80; D 3/17/80).

Alternative B is suggested for § 50.47, Appendix E, Section II, and Appendix E, Section III; Alternative A for § 50.54.



13. New Jersey, Department of Law and Public Safety, Division of State Police, West Trenton. (Letter 154, 2/22/80; D 3/17/80; Letter 192, 2/28/80; D 5/7/80) (Department of Environmental Protection).
- a. The NRC role during the course of a nuclear emergency (accident) must be clearly defined so that the State can understand our joint responsibilities and plan accordingly in a cooperative manner.
  - b. It must be clearly defined that the Governor (State) is the final authority and will render the critical decisions during a nuclear emergency).
  - c. There is a compelling need for the State to be aware first hand of what NRC is requiring of the licensee or local authority rather than learning it in a roundabout way.
  - d. We have reservations about compelling the licensee to formulate plans impacting on "Public Safety" as we deem it the State's responsibility.

We find either one of the alternatives in 10 CFR Part 50, Appendix E acceptable although we believe it's a waste of time to have the applicant provide an analysis of the time required to evacuate various sectors in the plume exposure pathway.

I would suggest at this time that NRC consider plant siting more critically, i.e., no inhabitants, housing allowed within close proximity before granting licenses to operate nuclear reactors.

14. Georgia, Environmental Protection Division, Department of Natural Resources, Atlanta. (Letter 156, 3/4/80; D 3/17/80).

Comments are similar to those of other States. In general, concurs in the proposed rule. The roles of FEMA and NRC appear to be somewhat confusing and need clarification. Concern is expressed that the ground rules are changing that could waste efforts already made.

"The State of Georgia recommends that part of the NRC license fees charged to the utilities be returned to state and local governments for use in defraying radiological emergency response activity costs."

15. Connecticut, Hartford.

- a. Department of Public Safety, Office of Civil Preparedness. (Letter 149, 2/28/80; D 3/17/80).

The workshop failed because of disruptions.

There is too short a time for comment in depth. Comments were similar to some of those in the issues identified in Enclosure B

with regard to the 15-minute warning time, deadline for concurrence, clear Federal Guidance and exact parameters established, interim guidance is a wasteful effort. Connecticut has no county governments this should be considered in planning guidance.

- b. Department of Environmental Protection. (Letter 128, 2/22/80; D 2/28/80).

Generally concurs in the proposed rule. Additional cost to State and local governments should be funded by NRC.

16. New Hampshire, Civil Defense Agency, and Office of the Attorney General, Concord. (Letters 118, 138, 147, 1/80 and 2/28/80; D 3/4/80 and D 3/17/80).

In general, supports the proposed rule. However, an emergency system should be available and applicable to all hazards. Comments are similar to some of those of other States. Plans should address the different problems for urban and rural populations. A footnote requirement is not appropriate.

"---the rule must avoid the situation of one community, unable to commit resources to the preparation of an emergency plan, preventing the operation of a nuclear facility. If one community is unable to prepare a plan, then state utility or federal officials must take up the slack. Concurrence should be based on the adequacy of the plan as a whole, and not on who prepared it."

The utility should bear the burden of plans as a cost of power generation and reflected in actual costs of production. While other suggestions for funding have been made, legislation at Federal and State levels might be necessary. The State prefers Alternative A.

17. Arkansas, The Governor, Little Rock. (Letter 108, 2/19/80; D 2/27/80).

Generally concurs with the proposed rule. Comments are similar to some of those in the issues identified in Enclosure B. Regulations should include language which permits, and perhaps encourages, States and local authorities to adopt stricter criteria than NRC.

18. Illinois, Emergency Services and Disaster Agency, Springfield. (Letter 53, 1/18/80; D 2/28/80; and Letters 59, 116, 2/6/80; D 2/13/80).

Comments are similar to those of the issues identified in Enclosure B and those of other States with regard to "guidance not yet developed" by NRC, funding and jurisdictional problems, unrealistic time schedules, and FEMA.

19. California, Office of Emergency Services, Sacramento. (Letter 122, 2/15/80; D 2/28/80).

- "a. Development of comprehensive emergency response plans is more complex than acknowledged by the NRC, (reference NUREG 0396).

- b. The time to accomplish the revision of existing plans and development of new plans in the 10-mile EPZ is unrealistic.
  - c. California's legislative mandate regarding emergency response planning will not enable us to meet the proposed NRC time schedule for review and concurrence.
  - d. It is not clear to us whether the requirement for NRC review of implementing procedures applies to on-site, off-site, or both.
  - e. The combination of Alternatives A and B would be the most effective way of ensuring adequate plans are available for protection of public health and safety.
  - f. Factual public information must be developed and distributed."
20. Maryland, Department of State Planning, Baltimore. (Letter 136, 2/15/80; D 2/29/80).

Comments are similar to a number of those in the issues identified in Enclosure B and those of other States. Do not feel enough attention has been given to emergency planning for research reactors.

21. Washington, Energy Facility Site Evaluation Council, Olympia. (Letter 63, 1/15/80; D 2/13/80). (Designated by the Governor to submit comments for the State.

The State of Washington's position regarding the proposed NRC emergency response regulations is as follows:

- a. The state prefers Alternate A which seems to provide a great deal more case by case flexibility to the Commission.
- b. With regard to Section 1 of Alternate A, we have four points to suggest in rewording the section:
  - (1) The state should be responsible for plan development.
  - (2) The state should be responsible for plan implementation.
  - (3) The state plan and implementation program should provide for local government involvement where possible and necessary.
  - (4) There is a need for overriding authority to mandate contiguous state plan development where necessary.
- c. With regard to Sections 2 and 3 of Alternate A we suggest the following rewording wherever the phrase "appropriate state and local emergency response plans" occurs: "appropriate state emergency response plans containing elements for local involvement where possible and necessary."
- d. With regard to Section 4, Alternate A, it is our understanding that continued concurrence in a state plan is based on ability

to implement that plan, not on frequent and unpredictable changes in plan criteria.

- e. With regard to Section 4 of the proposed regulations, it is the state's position that the 50 mile "emergency planning zone" must be limited to those areas under the jurisdiction of the United States and the affected states. Further, that consideration must be given to appropriate means of cooperating with other nations which may be affected by an emergency planning zone.

In summary, it is the position of the State of Washington that appropriate emergency response plans must properly be developed by the states, and state plans are the appropriate level for NRC concurrence. It is important that the state plans incorporate the involvement and participation of local jurisdictions where possible and necessary. With the extension of the "EPZ" to a 50 mile radius depending on numerous local governments to develop individual plans for concurrence will result in a fragmented and inefficient process.

Further, it is our position that extension of the "EPZ" to a 50 mile radius will involve an increased number of contiguous states. Means must be available to ensure that the failure of a single adjoining state to develop appropriate emergency response plans does not result in the failure to be able to operate a needed thermal power plant.

- 22. The Hon. John L. Behan, Assembly, New York State, Albany. (Letter 123, 1/23/80; D 2/13/80).

Ten miles is too short a distance for evacuation, e.g., New York City residents may possibly be effected. On Long Island, the 10-mile radius proposal becomes completely unworkable. If the Shoreham and Jamesport plants are opened, which he opposes, an evacuation plan should be formulated for all territory east of Shoreham. (SHOREHAM, JAMESPORT).

- 23. Port Authority of the State of New York, New York, N.Y. (Letter 101, 2/19/80; D 2/27/80).

Although not a member, the Authority agrees and joins in the comments of the Edison Electrical Institute (see G below). Planning by local governments should be reviewed in context with plans of the State. The proposed rule constitutes a substantial imposition of Federal authority on hitherto local decision-making power concerning public safety.

- 24.a. Alabama Department of Public Health, Montgomery. (Letter 172, 3/28/80; D 4/3/80).

It appears that NUREG-0654 was drafted by people who have had little experience with the problem. "No cost benefit is given to support the need for such fast action." It seems a NEPA review is required. Further guidance is needed. Definitions are not clear; more are needed.

- 24.b. Alabama Civil Defense Department, Montgomery. (Letter 178, 4/1/80; D 4/7/80) (Letter 179, 4/3/80; D 4/7/80).

Consumers should have a say in costs they must pay. There should be clearer definitions and guides. Supports petition filed by Dubois and Liberman (see G.12).

25. Nebraska, Department of Environmental Control, Lincoln, Neb. (Letter 186, 4/15/80; D 4/24/80).

Financing alert systems need more attention. Sirens are not adequate in rural areas. NOAA weather radios should be used. The 10-mile EPZ is not adequate.

26. Delaware, Department of Public Safety, Delaware City. (Letter 194, 3/4/80; D 5/7/80).

Favors Alternative A. Delays in publishing up-dated rules and regulations causes delays in planning. Technical assistance and funding is required and has not been addressed at the Federal level.

27. Illinois, Emergency Service and Disaster Agency, Springfield. (Letter 195, 3/14/80; D 5/7/80).

"Our design of the plan for Illinois is complete enough so that we should have no problem in meeting most of the criteria. However, the criteria themselves present some problems that needlessly complicate or confuse the process. Some of the evaluation criteria are vague or poorly defined. Some contain explicit requirements, instead of objectives. Furthermore, the burden has been placed squarely on the state and local governments, while FEMA has provided little additional direct support. I am aware, of course, that unless Congress passes the requested supplemental appropriation for FEMA, there is little FEMA can do. I am also aware that the likelihood of such funding is less than assured."

28. New York, Department of Health, Office of Public Health, Albany. (Letter 196, 3/17/80; D 5/7/80) (Includes views of Office of Disaster Preparedness and Energy Office).

Primary authority should be with the State, not the licensee. Licensees should notify States and states that have the capability should perform offsite monitoring.

The necessity to use changing revisions of Federal Guidelines and incomplete or confusing definitions for developing State and local plans is of concern. Evacuation requirements need more evaluation and clarification. There is confusion concerning jurisdiction and authority of licensee, Federal, State and local agencies; and account is not taken of State and local laws; e.g., funding aspects, and timing thereof. Schedules for implementation are not realistic.

NRC and FEMA should completely review all comments and revise the rule and supporting documents before requiring the development of revised emergency plans.

"It is one thing to write a plan in a few months and quite another to ensure its feasibility."

C. COMMENTS OF COUNTY GOVERNMENT

1. Luzerne County Civil Defense Council, Wilkes-Barre, Pa. (Letter 123, 1/16/80 and 2/8/80; D 2/28/80).

The local demonstrations at the Workshop prevented adequate participation of people from distant areas. Specific comments are similar to those of the issues identified in Enclosure B. Alternate evacuation plans should be made, e.g., a 20-mile evacuation plan should be held in reserve.

2. Richland County-City of Columbia, Civil Defense, Columbia, S.C. (Letter 25, 1/7/80; D 2/7/80).

Comments are similar to those in the issues identified in Enclosure B with regard to jurisdiction and authority, usurpation of constitutional authority of local government. "Local governments can not take on additional responsibilities without a corresponding substantial subsidy."

(Letter 24, 1/4/80; D 2/7/80) A study is provided indicating that facilities are not sufficient to handle a serious nuclear emergency arising from operation of the V. C. Summer plant. Recommends that the State's Adjutant General be asked to review requirements and provide advice (SUMMER).

- 3.a. Monroe County Board of Commissioners, Mich. (1/17/80).

Concurs with proposed rule; emphasizes need for better coordination with and funds from utilities.

- 3.b. Monroe County Office of Civil Preparedness, Monroe, Mich. (Letter 23, 1/21/80; D 2/7/80).

Endorses proposed rule.

4. County of San Diego Office of Disaster Preparedness and Fire Services, El Cajon, Calif. (Sent by State of California Office of Emergency Services, Letter 122, 1/16/80).

Generally agrees with proposed rule. Emphasizes training for all concerned.

5. Berrien County Sheriff Department, Office of Emergency Preparedness, St. Joseph, Mich. (Letter 7, 1/11/80; D 1/25/80).

The proposed rule would necessitate time for county government to study requirements including costs in obtaining and maintaining concurrence on a yearly basis. Comments appear to suggest that the rule would be a burden on the county, but no agreement or disagreement is stated.

6. County of Suffolk, New York. (Submitted by Reilly and Like, Attorneys at Law, Babylon, N.Y.) (Letters 157, 190, 2/26/80; D 3/17/80).

Evacuation of the population within a 10-mile radius, which may itself be inadequate, cannot be accomplished in less than several days. The County as an intervenor in the construction license of Jamesport and the operating license of Shoreham (SHOREHAM, JAMESPORT).

7. County of Ocean, Office of Defense and Disaster Control, Toms River, N.J. (Letter 129, 2/19/80; D 2/28/80).

Lists current facilities and deficiencies needing correcting to meet approved emergency response. There are severe budget limitations.

8. Putnam County, Office of Civil Defense, Carmel, N.Y. (Letter 132, 2/13/80; D 2/28/80).

Comments are "pretty much covered" by other people at the Workshop so far as could be heard above dissenters. Have good relations with utilities (INDIAN POINT).

9. San Luis Obispo County, Emergency Planned Development Committee, Calif. (Letter 122, 1/15/80; D 2/28/80 attached to California comments, B.19. above).

Represents a number of county governmental agencies in comments. Opposes any change in regulations that would establish NRC as a review authority over locally adopted emergency planning.

#### D. COMMENTS OF LOCAL GOVERNMENTS

1. Village of Winnetka, Ill. (no date, Workshop Letter 30, 1/22/80; D 2/7/80).

Comments refer to concern about waste storage. "We urge that no action be taken--[by NRC]--until a safe plan is produced by all concerned for nuclear waste storage" (ZION).

2. Rochester, Office of Emergency Preparedness, Rochester, N.Y. (Letter 159, 2/13/80; D 3/17/80).

Every effort is being made to complete a plan by the end of the year by Monroe County. Wayne County is upgrading its plan. The Ginna plant should not be shut down (GINNA).

3. Town of Haddam, Office of Selectmen, Haddam, Conn. (Letter 134, 2/14/80; D 2/28/80).

Communications and warning systems are currently deficient. (No adverse comments on the proposed rules were voiced) (CONNECTICUT YANKEE).

E. COMMENTS OF CONCERNED GROUPS AND ORGANIZATIONS

1. Friends of the Earth

- a. San Francisco, Calif. (Letter 51, 1/31/80; D 2/13/80).

Appiāuds efforts of NRC. "We are concerned, however, that the problem may be insolvable; no amount of preparation can protect the public from the consequences of a serious accident at a nuclear power plant."

- b. New York, N.Y. (Letter 21, 1/29/80; D 2/7/80).

Objections stated to NUREG-0396, EPA/1-78-016. (Letter 11, 1/29/80; D 2/7/80).

"-- its prime effect is reliance on the discredited --(Wash-1400); even this reliance is, however, selective rather than consistent."

2. Sheldon, Harmon & Weiss, General Counsel, Union of Concerned Scientists, Washington, D.C. (Letter 69, 2/19/80; D 2/19/80).

Find "serious shortcomings in both alternatives proposed by NRC." "A 10-mile emergency planning zone for plume exposure is clearly inadequate. "Alternative 'B' is preferable to Alternative 'A', but both lack sufficiently specific standards for exemptions." "Appendix E does not clarify the relationship between emergency planning and site evaluation."

3. Emergency Response Task Force, Oaktree Alliance, Paso Robles, Calif. (Letter 13, 1/24/80; D 2/7/80).

"There are too many loopholes in the form of exemptions from the proposed rules." Suggestions are made for approving evacuation plans, to include: practice drills involving one-third of the population in a zone; independent monitoring of radiological samples; include all unscheduled radiological releases, applicant should bear "full" financial responsibility for additional costs that local governments might incur.

4. The Nuclear Law Center, Beverly Hills, Calif. (Letter 75, 2/15/80; D 2/20/80).

Comments are similar in a few respects to those in the Reference Comments. Plans already exist. "These plans could, with assistance of the Federal Emergency Management Agency (FEMA), be upgraded and redrafted to include a nuclear disaster contingency." Favors Alternative B. Emphasizes coordination of plans for other natural disasters and combinations with regard to evacuation plans.

5. Sensible Maine Power, East Boothbay, Me.

Supports the proposed rule (MAINE YANKEE).



6. Texas Public Interest Research Group, Houston, Tex. (Letter 8; D 1/25/80).  
 "TexPIRG urges that emergency procedures planning be linked to siting policy to ensure that emergency procedures can be carried out at optimal levels at alternative sites, and that siting and emergency procedures policies should consider radii of 40-50 miles" (ALLENS CREEK).
7. New York Public Interest Research Group, New York, N.Y. (Workshop statement of David Sand, 1/15/80).  
 "We consider these proceedings at best a waste of time, and at worst an attempt to deceive the public into believing that something meaningful is being done to protect them." Protests the 10- and 50-mile EPZ's. No plans will adequately protect the public.
8. The Committee to Protect Children from Nuclear Dangers and 7. above, Statement of Joan Holt. (Workshop 1/15/80).  
 Comments similar or the same as 7. above.
9. Brooklyn SHAD, Brooklyn, N.Y. Statement of Marc Gross, (Letter 117, Workshop 1/15/80; D 2/28/80).  
 Comments similar to 7. and 8. above.
10. Village Independent Democrats, New York, N.Y. (12/10/80).  
 Similar to above.
11. Susquehanna Alliance, Lewisburg, Pa. (Letter 114, 2/15/80; D 2/28/80).  
 Comments are similar to others concerning the adequacy and inadequacy of the proposed rule to protect the public and the failure to respond to some comments from the public. Individuals involved should have a direct means of insuring that emergency measures are adequate. Supports Alternative B. "NRC should recognize the public's right to a public hearing." Suggestions are made for providing more restrictive measures than the proposed rule.
12. Citizens for a Better Environment, Milwaukee, Wis. (Letter 104; D 2/27/80).  
 By these emergency planning regulations, the Nuclear Regulatory Commission is responding to the public mandate that calls for the increased protection of the health and safety of citizens. The proposed regulation, however, does not fulfill that mandate. The implementation and enforcement of a vague and ambiguous rule which, in most part, disallows public participation is a half-hearted attempt to put nuclear power back on-line again.

13. Critical Mass Energy Project, Washington, D.C. (Letter 105, 2/22/80; D 2/27/80).

In general, supports the proposed rule, but feels it requires strengthening to provide adequate planning. A number of suggestions are given for wording and rewording. Supports Alternative B. EPZ's should be 30/100-miles

14. League of Women Voters, San Luis Obispo, Calif. (Letter 17, 2/14/80; D 2/18/80).

Not only should plans be approved, but also the means for implementing the plans fully. Favors Alternative B. Insufficient or no justification is given for a number of parameters mentioned in the proposed rule. A number of terms need clarification, e.g., use of the term "reasonably". The public should be involved as much as is practical, short of actual evacuation, in drills.

15. The Queens Safe Energy Coalition, Flushing, N.Y. (Letter 55, 1/15/80; D 2/13/80).

"There is no such thing as safety where radiation is concerned."  
"--WE DO NOT WANT 'DEATH LADEN' NUCLEAR POWER PLANTS."

16. San Luis Obispo Area Task Force on Nuclear Power Issues, San Luis Obispo, Calif. (Letter 91, 2/15/80; D 2/22/80).

Joining in submission:

Of San Luis Obispo:

The Sierra Club  
Mothers for Peace  
Concerned Physicians  
People Generating Energy  
Concerned Architects  
The Concerned Citizens

and:

South County Voters Against  
Diablo, Grover City  
Citizens Opposing Radioactive  
Cayucos, Cayucos  
Seaside Survival Group,  
Baywood Park  
Solid Rock, Morro Bay  
Concerned Citizens of Shell  
Beach, Pismo Beach  
Oak Tree Alliance, Atascadero

Detailed comments are provided as are suggested changes in the proposed rule. The proposed rules do not adequately protect the public. They contain too many loopholes and exemptions opportunities.

17. Montgomery County Citizens Energy Alliance, and Beltway Alliance for Safe Energy, Takoma Park, Md. (Letter 65, 2/19/80; D 2/19/80).

The 10/50-mile EPZ's are unrealistically low. Class 9 events should be considered. Reference to "meteorological" and "meteorology" should be added in some places. Recommend Alternative B in all instances. Suggested changes in wording are included.

18. Roger M. Leed, Law Offices, Seattle, Wash. (Letter 173, 3/28/80; D 4/3/80). (Represents Skagitarians Concerned About Nuclear Plants, SCANP).

SCANP's emphasis is on rules relating to plants not yet licensed; CP. NRC emphasized solicitations of comments from licensees and applicants, and not a more balanced sample of interested parties, one-sided. The Commission has not done its job in emergency preparedness. Information required at the CF state is inadequate. The EPZ concept is inadequate. Funding of inter-government agencies is a problem. Plants should not be operating without current approved emergency plans. They should be shut down now, until adequate plans are developed. Specific suggestions for rule changes are given.

19. Floridians United for Safe Energy, Miami, Fla. (Letters 182, 185, 198, 4/25/80; D 4/24/80, D 5/7/80).

The nuclear industry must assume financial responsibility for preparedness protection of all residents. Use of the Federal Register for notification is inadequate. Commercial fishing grounds are not properly considered. Non-volatile solids from a nuclear explosion are not properly considered. A schedule of payment by the utility is proposed for each citizen of several categories of citizens for protection.

#### F. COMMENTS OF INDIVIDUALS

1. Elliot Bezic, (address unknown, N.Y.?) (Letter 38, no date; D 2/13/80).

Supports Alternative B.

2. Julie Burke Miller, Lagrange, Ky. (Letter 84; no date; D 2/21/80).

Supports requirements for approval of evacuation plans prior to licensing.

3. Wynne Connor, Sun City Center, Fla. (Letter 127, sent through Senator Chiles, see A.4. above). (D 2/28/80).

A utility has no legal authority over State and local governments. NRC has been "dragging its feet" in providing aerial photographs requested and needed in planning. The emergency response team has not been trained. Federal matching funds cut off for implementing an emergency program in Citrus County. FEMA and NRC should work together to make nuclear power safe. Believes nuclear power is needed. She is disturbed that power plants could be shut down because the county refuses to develop a plan, although she is sure the county will develop a plan.

4. Drs. John M. Shepherd and Dr. Vicki R. Thingelstad, Optometrists, La Grange, Ky. (Letter 66, 2/11/80; D 2/19/80).

"I am definitely in favor of the proposal if the filing of the plan is required before a nuclear facility can be allowed to go on line. Adoption of the proposed rules gives those living in close proximity to the plant an opportunity to have some voice in the disposition of their future."

5. Terry F. Braehler, Pee Wee Valley, Ky. (Letter 68, 2/9/80; D 2/19/80).  
Briefly, in favor of proposed rule.

6. Marc Jampole, San Francisco, Calif. (Letter 52, 1/17/80 (Workshop);  
D 2/13/80).

"Without an efficient evacuation plan, we can not tolerate commercial nuclear power plants."

"I have outlined what I believe are essential elements of any emergency evacuation plan. To recapitulate, any emergency evacuation plan must include the following: 1) Contingencies for the worst case scenario. For Rancho Seco, that means evacuation within hours of over 7 million persons from a 2,000 square mile area. 2) Total pecuniary compensation to displaced persons as a necessary requirement before an evacuation plan is approved. 3) Stipulation that continuing education and frequent drills in schools and businesses be a requirement in the worst-case area surrounding a nuclear power plant. 4) Shut down of all nuclear power plants in operation, and a moratorium on the licensing of new plants until a safe, efficient evacuation plan, which includes the above proposals, is approved by the NRC and implemented by the States and utility companies." ("Worst-case reference is WASH-1400) (RANCHO SECO).

7. Margaret Bishop, Houston, Tex. (Letter 14, no date, D 2/7/80).

Increase the 10-mile area to 50 miles.

8. R. Reinecke, Alpharetta, Ga. (Letter 46, no date; D 2/13/80?).

Questions in general are similar to Reference Comments. "Making" news; helping the news media, use local officials' experience for evacuations; time for "concurrence" can be met (basis for deadline) should not cater to media?" "In summary, as a positive comment, the proposed rule should not be implemented either as alternate A. or B. The acceptable alternative is the present rule."

9. Frazier L. Bronson, Northbrook, Ill. (Letter 15, 1/23/80; D 2/7/80).

I firmly believe that all reasonable efforts should be expended to reduce unnecessary radiation exposure, but that this should not be out of proportion to the benefit gained. Anything beyond this represents an unnecessary expense to me as both a taxpayer and a utility ratepayer.

It is therefore recommended that a cost/benefit analysis similar to that required under Appendix I be conducted. If the total national incremental cost of the proposed augmented emergency plan for the life of the plants affected divided by the incremental reduction in dose-commitment to people from all expected accidents at all plants is in excess of \$1000.00 per man-rem, this action should not be taken. (Respondent is a health physicist.)

10. Elizabeth Smith, Downingtown, Pa. (Letter 18, 1/23/80; D 2/7/80).  
A good evacuation plan for at least a 30-mile radius should be included. "I hope that-- no more plants will be proposed"---("with the problems they've run into").
11. Tony C. Tillman, LaPlace, La. (Letter 79, 2/13/80; D 2/20/80).  
Prefers Alternative A, but Alternative B could be improved. "I suggest that the construction permit for Waterford III be revoked or suspended until your regulations are finalized" (WATERFORD).
12. Flora Friedman, Highland Park, Ill. (Letter 35, 1/22/80; D 2/15/80).  
States concern about plane crashes into spent fuel pool. Plants should not be built in a populated area. Evacuation plans are non-existent or feeble (ZION).
13. Donald D. Weaver, Simonton, Tex. (Letter 118, 12/11/79; D 12/31/79).  
The 10-mile radius for evacuation should be extended to 50 miles. Plants should be located in remote areas.
14. James J. Zach, Two Rivers, Wis. (Letter 119, 1/2/80; D 1/11/80).  
No evacuation at Three Mile Island was necessary. The new rules seem unnecessary and could lead to more harm than good to the public.
15. Eva Marmorstein, New York, N.Y. (1/14/80)  
Adopt Alternative B.
16. Judith Farrell, Plymouth, Mass. (Letter 6, 12/14/80; D 1/18/80).  
"Evacuation plans are by no means complete." Evacuation would take at least two to three hours (PILGRIM).
17. Marlene G. Seidts, Phoenixville, Pa. (Letter 141, 3/3/80; D 3/17/80).  
The making of emergency planning equivalent in importance to siting and design is plausible. Alternatives, however, should be more stringent. NRC should reconsider its construction permit for Limerick (LIMERICK).
18. Emil G. Garrett, Lt. Col., USA (Ret.), Stockton Springs, Me. (Letter 145, 2/25/80; D 3/17/80; Letter 175, 4/1/80; D 4/7/80).  
Supports proposed rule. Suggests deletion of reference to "Expected Frequency" in NUREG-0610 as it tends to downgrade emergency planning. There should be more public participation in reviews. The "Criteria" should require that State funds be identified to provide for a continued capability.

Prefers Alternative A or B in some sections. Clear definitions are needed. Class 9 accidents are not adequately addressed. Funding is not adequately addressed.

19. Arnold F. Willadsen (?), Ft. Lauderdale, Fla. (Letter 113, 2/16/80; D 2/28/80).

Too bad about interruptions at New York Workshop. Funding seems to be a problem. New Jersey has a program for providing funds for emergency plans for municipalities around nuclear plants. A similar system might be considered in other areas.

20. Kenneth Alcott, San Rafael, Calif. (Letter 120, 1/17/80; D 2/28/80).

Generally concurs in the proposed rule. Concerned about operating plants that currently do not have approved plans. Informing the public of emergency procedures should be more often than yearly. Rapid warning in case of an emergency is highly questionable.

21. Dennis Dums, (Letter 100, no address, no date; D 2/27/80).

The proposed rule does not provide for the public and local and State planners to be in on the concurrence procedures.

22. Angela S. Howard, Charlotte, N.C. (Letter 45, no date; D 2/13/80).

"But penalizing our nation's energy supply by shutting down reactors or not licensing plants because state plans have not received NRC approval is insane." "This lack of action on the part of NRC is only one small example of your agency's lack of decisive action." "Please get yourself in gear!"

23. James Gaut, Pottstown, Pa. (Letter 37, 1/23/80; D 2/13/80).

"--that no plant should be allowed to use nuclear power unless it would be possible to get people out of a 30 mile radius very quickly." Limerick should not be allowed to operate and plants near New York City and Chicago should not go on operating (LIMERICK, et al.).

24. Donald W. Hyde, Riverside, Calif. (Letter 93, 2/15/80; D 2/22/80).

"And, the only solution, if it isn't already too late, is truly to shutdown the nuclear industry now." Just in case: in neither Alternative A or B should exemptions be allowed. Realistic EPZ's must be established, regardless of difficulties; 15-minute warning is good.

25. Majorie M. Aamodt, Coatesville, Pa. (Letter 94, 2/19/80; D 2/22/80).

For the EPZ of 50 miles, "sheltering needs to be planned." "The expense of required emergency plans should be the responsibility of the utility."

26. Alexander Grendon, Sacramento, Calif. (Letter 1, 12/29/80; D 1/7/80).

Comments are generally along the lines of the issues identified in Enclosure B, but mostly in regard to technical changes in wording and definitions. Alternative A is preferable in § 50.54(t). Alternative B is preferable in Appendix E, Section II and Appendix E, Section III. There seems to be no material difference in alternatives § 50.47(a).

(Respondent is a well known scientist, health physicist, former administrator of radiological health and related programs of the State of California and former professor at the University of Berkeley; Col., USA (Ret.).)

27. Sherwood Davies, P.E., Delmar, N.Y. (Letter 188, 4/17/80; D 4/24/80).

Guidance is not clear with regard to requirements of operator and State/local government. Including all local agencies up to 50 miles is questionable as to purpose and need. All ingestion and inhalation pathways should be considered (tobacco crops, swimming, etc.). Terms need to be better defined. Various guidance issue is ambiguous.

#### G. COMMENTS OF UTILITIES AND REPRESENTATIVES

1. Chickering and Gregory, Law Offices, San Francisco, Calif. (Representing Southern California Edison C.) (Letter 70, 2/15/80; D 2/19/80).

Comments from this source follow all of the issues identified in Enclosure B.

2. KMC, Inc., Washington, D.C.

- a. (Petition, 2/14/80; D 2/14/80). Representing:

American Electric Power Company  
Baltimore Gas & Electric Company  
Cincinnati Gas & Electric Company  
Commonwealth Edison Company  
Consumers Power Company  
Detroit Edison Company  
Duquesne Light Company  
Florida Power & Light Company  
Jersey Central Power & Light Company  
Maine Yankee Atomic Power Company  
Mississippi Power & Light Company  
Nebraska Public Power District  
Northern States Power Company  
Omaha Public Power District  
Pacific Gas & Electric Company  
Public Service Electric & Gas Company  
Southern California Edison Company

Petition relating to adversity to the "15-minute alert within 10 miles of a nuclear facility." Discussion is similar to that of much of the issues identified in Enclosure B on this subject.

- b. (Letter 61, 2/15/80; D 2/15/80). Representing those listed in a. above and:

Arkansas Power & Light Company  
Florida Power Corporation  
GPU Service Corporation  
Sacramento Municipal Utility District  
Toledo Edison Company

Workshops were unsatisfactory; not enough opportunity for utilities, States and local governments to participate, especially in New York. Comments are similar to those in the Reference Comments. A public proceeding on this rule making is suggested as a proper forum. Terms need to be specifically defined and clarified. Considerable comments are given on "concurrence." As in the issues identified in Enclosure B, specific revisions are suggested.

- c. Letter to FEMA. (Letter 160, 3/14/80; D 3/17/80).

Refers to comments in b. above.

3. Rochester Gas & Electric Corp., Rochester, N.Y. (Letter 88, 2/21/80; D 2/22/80).

The comments of the Edison Electrical Institute (below) are supported. Comments are similar to some of those in the issues identified in Enclosure B. Dates of requirements are unrealistically short (GINNA).

4. Commonwealth Edison, Chicago, Ill. (Letter 76, 2/15/80; D 2/20/80).

Comments are similar in many respects to the issues identified in Enclosure B. (See also G. 2. above.)

5. Baltimore Gas and Electric, Baltimore, Md. (Letter 77, 2/15/80; D 2/20/80).

See G. 2. above. Additional comments are similar to several in the issues identified in Enclosure B, especially as to definitions, EPZ's, and FEMA.

6. Puget Sound Power & Light Co., Bellevue, Wash. (Letter 80, 2/15/80; D 2/21/80 and 2/22/80).

Concurs in the comments of the State of Washington (B. 21). (See also 13.b. below.)



7. Yankee Atomic Electric Co., Westborough, Mass. (Letter 20, 1/29/80; D 2/7/80. Letter 62, 144 2/12/80; D 3/17/80. Letter 130, 2/19/80; D 2/28/80).

Deep concern and dissatisfaction with the ability to receive feedback from NRC and others at the Workshop because of disruptions from those not representing the public. There should be a repeat workshop for Region I, not in New York City. Comments are similar to a number of those in the issues identified in Enclosure B, including suggested rewording. Delete references to alternatives. Estimated costs (NRC's) appear to be quite low.

8. Niagara Mohawk Power Corp., Syracuse, N.Y. (Letter 143, 3/5/80; D 3/17/80).

Comments are similar to those of the issues identified in Enclosure B with regard to FEMA. Supports Alternative A. Questions FEMA's-NRC's ability to review all plans by January 1, 1981. Compare costs/benefits.

9. Atomic Industrial Forum, Inc., Washington, D.C. (Letter 110, 2/20/80; D 2/28/80).

Comments and rewording suggestions are similar in most respects to those of the issues identified in Enclosure B, and similar to others in a number of respects (consideration of other emergencies, FEMA, need for definitions, time limits, etc.).

10. Mississippi Power & Light Co., Jackson, Miss. (Letter 135, 2/19/80; D 2/29/80).

Comments similar to those of the issues identified in Enclosure B. (See also G.2 above).

11. Washington Public Power Supply System, Richland, Wash.

Comments are similar to those in the issues identified in Enclosure B, including many suggested changes. (Letter 106, See also 12 below).

12. Debevoise & Liberman, Law Offices, Washington, D.C. (Letter 87, 2/19/80; D 2/22/80. Letter 92, 2/19/80; D 2/21/80).

Duke Power Company  
Texas Utilities & Generating Company  
Washington Public Power Supply System

Comments are similar to some of those in the issues identified in Enclosure B as to legal questions, jurisdiction of NRC, haste in preparation of NRC supporting documentation. Separate comments of WPPSS enclosed (11 above). A petition for rulemaking on the subject was filed 3/12/80.

13. Lowenstein, Newman, Reis, Axelrad & Toll, Law Office. Washington, D.C.
- a. (Letter 63, 2/19/80; D 2/19/80). Representing:
- Boston Edison Company
  - Florida Power & Light Company
- Comments deal with 44 FR 3913 although docketed for 44 FR 75167.
- b. (Letter 72, 2/19/80; D 2/19/80). Representing:
- Florida Power & Light Company
  - Houston Lighting & Power Company
  - Iowa Electric Light & Power Company
  - Iowa Power & Light Company
  - Northern Indiana Public Service Company
  - Portland General Electric Company
  - Puget Sound Power & Light Company
  - Public Service Company of Colorado
  - Public Service Company of New Hampshire
  - Vermont Yankee Nuclear Power Corporation
- Comments are similar to those of the issues identified in Enclosure B and those in A.2 and A.6 above.
14. American Electric Power Service Corp., New York, N.Y. (Letter 85 2/20/80; D 2/21/80). (See also G.2. above).
- Endorses comments of the Edison Electrical Institute and the Atomic Industrial Forum (9 above). The legality of the proposed rule is subject to question, but this is not the forum for it. Comments are similar to those in the issues identified in Enclosure B.
- With regard to Implementing Procedures of Section V, it is not clear why they are needed by NRC's regional and Washington offices no less, ten copies. Since the procedures are site-specific and contain proprietary information which may be sensitive to security, they should not be subject to public disclosure, if required to be submitted at all.
15. Duke Power Co., Charlotte, N.C. (Letter 83, 98, 2/19/80; D 2/21/80).
- Comments are similar to many of those in the issues identified in Enclosure B. (See also 12 above).
16. Northeast Utilities, Hartford, Conn. (Letter 89, 2/21/80; D 2/22/80).
- Comments are similar to those in many respects in the issues identified in Enclosure B.

17. LeBoeuf, Lamb, Leiby & MacRae, Attorneys, Washington, D.C. (Letter 86, 2/19/80; D 2/21/80). On behalf of:

The Detroit Edison Company  
Niagara Mohawk Power Corporation  
Omaha Public Power District  
Public Service Company of Indiana  
Rochester Gas & Electric Corporation

Endorses and adopts as their own the Edison Electric Institute comments.

18. Shaw, Pittman, Potts & Trowbridge, Washington, D.C. (Letter 99, 2/19/80; D 2/22/80). On behalf of:

Alabama Power Company  
Carolina Power & Light Company  
Georgia Power Company  
Jersey Central Power & Light Company  
Metropolitan Edison Company  
The Cleveland Electric Illuminating Company  
Wisconsin Electric Power Company

Comments are similar to those of the issues identified in Enclosure B. Comments are given in considerable detail, including suggestions for rewording and other substantive changes. Comments are also similar to those of A.1. and A.2. above are included. NRC and FEMA should jointly publish a detailed time schedule setting forth requirements and milestones for review of each State and local emergency plan.

19. Edison Electric Institute, Washington, D.C. (Letter 32, 1/24/80; D 2/7/80. Letter 73, 2/19/80 and Letter 109, 2/22/80; D 2/27/80).

Many of the comments and suggested revisions are included in the issues identified in Enclosure B. "We believe the Commission's proposed rule is fundamentally flawed and that major modifications must be made in this proposal before the rule is finally promulgated."

EI believes that many of the stringent provisions and sanctions contained in the proposed rule have been largely obviated by the demonstrated progress and cooperation with state and local governments displayed by the utilities in the last few months. Rather than requiring concurrence as a condition of licensing, which tends to stress a negative and mechanical approach to the upgrading process, NRC should stress a positive role for the Federal Emergency Management Agency (FEMA) in support of state and local governments in their efforts to upgrade preparedness capabilities. The objective of this program should be enhanced emergency preparedness, not the shutdown of reactors. To this extent, the proposed rule is misdirected and could accomplish the wrong objective.

The problems associated with this rule are compounded by the unilateral attempt of the Commission's Regulatory Staff to incorporate into regulatory requirements many new, detailed elements of emergency planning. Detailed planning requirements are already being imposed

on utilities by the Staff without the benefit of public comment and Commission review. For example, NRC and FEMA have published revised acceptance criteria for preparation and evaluation of emergency response plans.\* These are substantive requirements which are being imposed now as if they were contained in regulations, subject to subsequent review and comment. The comment period is largely ceremonial for those operators which are required presently to comply with its provisions. Because these detailed requirements directly affect the implementation of this proposed rule change. NRC should fully review and examine, with public participation, the ramifications of these changes. They are an important part of this rulemaking proceeding and therefore should be carefully addressed explicitly.

RECOMMENDATION: Recognizing this is an interim rule, the NRC should conduct a comprehensive rulemaking in the near future, to consider fully the detailed emergency planning requirements currently being imposed at the Staff level. The NRC should instruct its Staff not to impose on licensees sanctions for noncompliance with detailed requirements not contained in the interim rule, pending completion of a more definitive rulemaking.

The rulemaking on emergency planning should be one element of a broader rulemaking which explicitly recognizes the interrelationships among design, siting and emergency planning.

#### H. COMMENTS OF OTHER CORPORATE ENTITIES

1. Gauthier Industries, Inc., Rochester, Minn. (Letter 5, 1/11/80; D 1/18/80) (Letter 181, 4/8/80; D 4/14/80).

Advocates use of local Emergency Broadcasting System facilities for alerts.

2. Time Frequency Technology, Inc., Santa Clara, Calif. (Letter 50, 12/17/80; D 2/13/80).

Offers to supply equipment for Emergency Broadcasting System.

3. Glasser Associates, P. A., Consultants in Nuclear Olney, Md. (Letter 57, 2/7/80; D 2/13/80).

Comments include some of those in the issues identified in Enclosure B. Emergency plans should include provisions for possible in accidents along with radiological emergency planning. Objectives to inflexible EPZ's.

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\*"Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," NUREG-0654, FEMA-REP-1.

4. Ebasco Services, Inc., New York, N.Y. (Letter 78, 2/11/80; D 2/20/80).

Comments are similar to several of those in the issues identified in Enclosure B, especially with regard to definitions, FEMA, and legislative authority.

5. UNC Naval Products, Uncasville, Conn. (Letter 11, 1/21/80; D 1/25/80).

Emergency planning rules for 10 CFR Part 70 facilities should be separate from those of 10 CFR Part 50.

6. General Electric Co., wilmington Manufacturing Department, Wilmington, N.C. (Letter 111, 151, 2/22/80; D 2/28/80 and 3/17/80).

Suggests wording changes making the rule more appropriate with regard to 10 CFR Part 70 licenses.

7. Westinghouse Electric Corp., Nuclear Technology Division, Pittsburgh Pa. (Letter 90, 2/19/80; D 2/22/80).

Some comments are similar to those of the issues identified in Enclosure B.

The proposed rule addresses only one aspect of a number of closely related topics identified by the NRC for potential rulemaking in NUREG-0660. Such topics include the proposed siting policy rulemaking and the proposed core melt mitigation rulemaking. Other aspects of emergency planning have been addressed in separate NRC reports issued over the past several years and only last week the NRC announced another report, NUREG-0654 dealing with acceptance criteria for emergency planning. Such a piecemeal approach to development of such important regulatory requirements is unacceptable because of common underlying technical issues and in effect deprives interested parties of meaningful participation in the regulatory process.

If the NRC nevertheless finds it necessary to issue changes in its regulatory requirements in this area, such changes should be issued as interim changes pending resolution of the rulemaking proceedings on all the related topics. Furthermore, the NRC should formulate an integrated plan for dealing with these topics so that common issues can be adequately addressed in one proceeding.

8. EXXON Nuclear Co., Bellevue, Wash. (Letter 95, 2/14/80; D 2/22/80).

Supports and agrees with comments of Edison Electric Institute. An exception should be made in the introduction of Appendix E to provide that fuel cycle facilities be treated on a case-by-case basis.

9. American Red Cross, Washington, D.C. (Letter 3, 1/15/80; D 1/18/80).

"Since a nuclear accident involves potential owner liability, we believe that financial accountability must be part of the required emergency plans in which NRC/FEMA are to concur."

10. Legal Aid Society of Clermont County, Batavia. (Letter 96, 2/13/80; D 2/22/80).

Comments are similar to those in the issues identified in Enclosure B. Very serious financial considerations are involved. Utilities should cover the costs and how that they have the ability to do so.

Since these issues of emergency planning cannot be understated, the NRC should expand its hearing procedures to facilitate meaningful intervention by responsible parties raising issues concerning emergency planning. Specifically the NRC should provide funds for responsible interveners for purposes of participation in the NRC hearing process to cover costs such as expert witness fees, attorneys fees, etc. In the Zimmer hearings, I have found that the financial burdens on interveners, even local municipalities, are great and more often than not preclude public participation in the NRC hearing process.

11. Environmental Systems Corp., Knoxville, Tenn. (Letter 184, 4/16/80; D 4/24/80).

Need clear definitions and guidelines. Guides are confusing.

12. NUSAC, Inc., McLean, Va. (Letter 189, 2/18/80; D 5/7/80).

The timetable is unrealistic. Funding is a problem for State and local jurisdictions and needs Federal support.

"The utility, then, becomes a political pawn, its license lying in the hands of persons not directly subject to the NRC and its licensing jurisdiction." "The proposed rule goes further in that it abetts (sic) the interests of non-nuclear groups or interveners." Supports Alternative A.

I. LETTERS RECEIVED WITH NO COMMENTS ON RULE

1. Author unknown, Village of Glencoe, Ill. (Letter 121, unclear, no date).
2. Hon. Tod Bedrosian, Assemblyman, Reno, Nev. (Letter 124, 2/9/80; D 2/28/80).
3. Author unknown (Letter 33; D 2/7/80).
4. Alan Curtis, Palatine, Ill. (Letter 49, 1/22/80; D 2/13/80). (ZION).
5. Susan Turner, Roslyn Heights, N.Y. (Letter 23, 1/15/80; D 2/7/80). (INDIAN POINT).
6. Mrs. John C. Besson, New Cannon, Conn. (Letter 29, 1/18/80; D 2/7/80). (INDIAN POINT).
7. Barbara S. Padjack (address unknown) (Letter 28, no date). (INDIAN POINT).

27. Connecticut, Office of Policy and Management, Hartford (Letter 193, 2/28/80; D 5/7/80).
28. Scott Hanchin, La Grange, Ky. (Letter 197, 4/14/80; D 5/7/80).

8. Mrs. Kathy Toscane, Croton-on-Hudson, N.Y. (Letter 41, 1/25/80; D 2/13/80). (INDIAN POINT).
9. Glenn Bishop, Des Persa, Mo. (Letter 119, 2/18/80, D 2/28/80).
10. West Branch Conservations Association, New City, N.Y. (Letter 39, 58, 103, 2/18/80; D 2/27/80). (INDIAN POINT).
11. Lorraine Koblick, New York, N.Y. (Letter 40, 1/13/80; D 2/13/80). (INDIAN POINT).
12. Elizabeth D. Liners, Pearl River, N.Y. (Letter 42, 1/27/80; D 2/13/80). (INDIAN POINT).
13. Mrs. Lucille K----- (Not legible), Bayside, N.Y. (Letter 43, 1/20/80; D 2/13/80).
14. New Jersey Department of Law and Public Safety, Division of State Police. (Letter 44, 115, 1/16/80; D 2/13/80, 2/18/80). (Letter with comments, see Synopsis B.13).
15. Baltimore Gas & Electric Co. (Letter 82, 2/15/80; D 2/21/80). (Relates to 45 FR 3913).
16. Coalitions for Public Participation. (Letter 56, 1/9/80, D 2/13/80).
17. New York Division of Military and Naval Affairs. (Letter 133, 146, 2/13/80; D 2/28/80, 3/17/80).
18. County of Suffolk, N.Y. (Letter 131, 2/8/80; D 2/28/80).
19. Roger M. Leed, Law Office, Seattle, Wash. (Letter 142, 2/22/80; D 3/17/80).
20. Marion County, Fla. (Letter 12, 1/15/80; D 1/25/80).
21. Julius D. Geier, Decatur, Ill. (Letter 169, 3/18/80; D 4/3/80).
22. Bolt Beranek and Newman, Inc., Cambridge, Mass. (Letter 171, 3/18/80; D 4/3/80).
23. California Department of Health Services, Health and Welfare Agency, Sacramento. (Letter 174, 3/31/80; D 4/3/80).
24. Yankee Atomic Electric Co., Westborough, Mass. (Letter 177; 4/3/80; D 4/7/80).
25. Duke Power Co., Charlotte, N.C. (Letter 183, 4/9/80; D 4/24/80).
26. Edison Electric Institute, Washington, D.C. (Letter 187, 4/18/80; D 4/24/80). (See Letter 73).



SEE SECY-80-261

Enclosure "F"



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS  
WASHINGTON, D. C. 20555

May 6, 1980

Honorable John F. Ahearne  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

SUBJECT: REPORT ON PROPOSED EMERGENCY PLANNING RULE (10 CFR Part 50)

Dear Dr. Ahearne:

The purpose of this letter is to provide you with ACRS comments on the Proposed Rule on Emergency Planning (10 CFR Part 50) as published in the Federal Register (Vol. 44, No. 245) on December 19, 1979. In preparing these comments, the Committee had the benefit of discussions with the NRC Staff on May 1, 1980. The ACRS Subcommittee on Site Evaluation also met with the NRC Staff on April 22, 1980 to discuss this matter.

Subsequent to the meeting on April 22, 1980, the Subcommittee Chairman was informed that the Proposed Rule had been extensively revised by the NRC Staff. However, a copy of this newer version was not made available to either the Subcommittee or the full Committee in time for the preparation of these comments. If you desire, the Committee would be pleased to offer comments on the revised Rule at a later date. Because of scheduling difficulties, the earliest that this could be accomplished would be approximately the middle of July. Although this would probably necessitate a delay in the implementation of the Rule, we believe there are benefits to be gained through additional review.

The ACRS concurs with the NRC Staff view that there is a need to review and upgrade the status of emergency preparedness at commercial nuclear power plants. Those provisions in the proposed regulations that concern definition of roles, identification of proposed actions, and testing of the performance of equipment and personnel are clearly desirable. However, our review of the Proposed Rule has revealed a number of questions and problem areas. The more significant of these may be summarized as follows:

1. The Proposed Rule includes two alternative approaches for implementing the proposed changes. On the basis of clarifications provided by the NRC Staff, the ACRS would endorse Alternative A. In case of problems with State and local government emergency response plans, this Alternative would require action by the NRC to shut down a plant, instead of automatically requiring shutdown under the regulations.

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2. The NRC Staff notes in the Proposed Rule that "while emergency planning is important for public health and safety, the increment of risk involve[d] in permitting operation [of existing reactors] for a limited time in the absence of concurred-in plans may not be undue in every case." The Committee agrees with this conclusion but questions whether it is compatible with the assertion that the Commission views "emergency planning as equivalent to, rather than as secondary to, siting and design in public protection ...." Safe day-to-day operation would be impossible without adequate siting and design and proper operation of a safely designed and sited reactor would probably not represent an unacceptable risk for several months and probably years.

A preferred statement would recognize that siting, design, and emergency planning, as well as responsible operation, are separate but interrelated considerations that constitute the overall safety package. It is not clear that the NRC policy of elevating emergency planning to the same level as engineered safety features is wise or necessary. The role of emergency planning should be defined as supplemental to the decisions to allow operation of a plant.

3. In the Foreword to NUREG-0654 (See Reference 2) emphasis is placed on there being minimum acceptance criteria for emergency preparedness and planning. There are also implications in this report and in the Proposed Rule that these criteria will be made mandatory for licensees and for the acceptability of emergency plans developed by State and local agencies. Insistence on strict compliance with detailed criteria could prevent proper coordination of nuclear power plant emergency planning with other emergency preparedness activities of State and local agencies, and could also delay the modification of specifications for key factors, such as evacuation times and distances, as better information is developed through ongoing emergency planning.

In addition, the Committee has noted an absence of technical justification for many of the requirements associated with the Proposed Rule and the criteria by which compliance will be judged. If, in the final analysis, a decision is made to retain these criteria in the Rule, then, as a minimum, efforts should be made to test them on a range of nuclear and major nonnuclear accidents that have occurred in the past. Such tests would be particularly useful in showing how successful the specified actions would have been in alleviating the effects of the given events.

4. The Proposed Rule specifies that "the capability will be provided to essentially complete alerting of the public within the plume exposure pathway EPZ within 15 minutes of the notification by the licensee of local and State officials." The ACRS agrees that providing such capability is desirable but believes that emergency plans should reflect the fact that there is less urgency for immediate notification of people living at greater distances from the site and that, in the majority of cases, the promptness of notification should have the important input of human evaluation and assessment. This might be accomplished through application of a graded scale of timing tied into distance, coupled with on-the-spot evaluations of local weather and other conditions. Supporting this approach are the results of recent research which indicate that prompt evacuation of people residing beyond five miles of a site may not be beneficial on a risk assessment basis except under the most unusual circumstances. Furthermore, there is need to consider the possible risks associated with notification of the public prior to the police and other officials being ready and available to direct and control the responses of people residing near a power plant.
5. The Proposed Rule and accompanying proposed criteria request that applicants provide detailed information on evacuation, including "an analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations." In no case, however, does the Proposed Rule provide information as to what times would be considered acceptable, even though, in the case of evacuation, the risks resulting from transportation accidents are often related to the hastiness of the action. As written, the Rule also appears to allow no alternative to evacuation. This implies that the applicant is not likely to be permitted to provide a better alternative, such as having the population remain indoors while the plume passes. This is a situation that reduces itself to the now familiar issue of specifying "how to" rather than providing the desired goal and allowing the licensee or State government to seek the best solution. In some locations, evacuation from the plume Emergency Planning Zone is obviously impractical. If evacuation is to be the favored emergency planning alternative, this choice and the requirements for it should be well-substantiated.
6. The Proposed Rule calls 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...." Although the last two of these items appear reasonable, the ACRS suggests that the dissemination of information of the types described in the first two items cannot be expected to provide any improvements in emergency preparedness. The Committee therefore recommends that these two items be deleted.

7. The Proposed Rule specifies that exercises to test the adequacy of an emergency plan should be conducted at a frequency of once every three or five years. Because of the rapid turnover in staff personnel at all levels in all the organizations involved, the ACRS recommends that such exercises be conducted at three-year intervals. The Committee also urges that the exercises be utilized for purposes of instruction as well as for evaluations of compliance.

Although the Proposed Rule calls for licensees to provide an independent review of their emergency preparedness program every twelve months, no mention is made of participation by State and local authorities. This omission should be corrected.

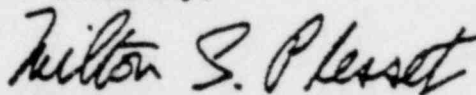
8. One alternative in the Proposed Rule requires that corrective measures to prevent damage to onsite and offsite property be identified. The ACRS believes that protection of property is less important and less feasible than protection of health and safety and, in fact, may divert effort from the latter aspect. The Committee recommends therefore that this requirement be omitted from the Rule.
9. As written, the Proposed Rule will require in-depth discussion and subsequent concurrence in the emergency preparedness program by the applicant and the NRC, as well as by State and local governmental authorities. The ACRS is concerned that this could constitute a third-party veto of the operation of a nuclear power plant based on considerations that may be unrelated to health and safety. The ACRS believes that such a requirement should not be included in the Rule without some safeguards against such action by a third party. Furthermore, a de facto veto power on operation appears to exist with each local government entity within ten miles of a nuclear power plant if it chooses not to permit establishment of the warning facilities required to meet the criteria. If the Proposed Rule poses such a possibility, it introduces complex societal issues. The ACRS recommends that the wording of the Rule be altered to permit the NRC sufficient flexibility to cope with this situation and not mandate such power to local governmental entities in the absence of a Federal law addressing the matter.

May 6, 1980

10. The ACRS would also like to comment on the role of the Federal Emergency Management Agency (FEMA) as related to the Proposed Rule. Although the NRC Staff stated that FEMA would simply notify them of their decision relative to the adequacy of a State and local emergency plan, a nonconcurrence on the part of FEMA might also represent a "veto" action on a given application. There are also questions as to the adequacy of the resources or the staffing of FEMA to assume these new responsibilities. In addition, the ACRS sees a need for clarification of its future role relative to FEMA and to reviews of emergency preparedness planning for nuclear facilities.
11. In a sense, the NRC is serving as a pioneer in the area of emergency preparedness. It should be recognized that there are many other technological aspects of society which pose hazards comparable to, or larger than, those from nuclear power plants. FEMA is in the process of developing guidance with regard to emergency preparedness in a general way; however, the rate of implementation proposed for nuclear plants by this Rule appears to be much more rapid, and the requirements possibly more stringent than those required for other types of facilities. The Committee believes that the NRC-FEMA approach to emergency preparedness for nuclear reactor accidents should be developed and implemented within the framework of a broad societal approach to emergency situations in general.

The Committee will be pleased to discuss the above items with you at your convenience. In the meantime, we trust these comments will be helpful to you and the NRC Staff.

Sincerely,



Milton S. Plesset  
Chairman

References:

1. Proposed Emergency Planning Rule, Federal Register Vol. 44, No. 245, December 19, 1979.
2. NUREG-0654 (FEMA-REP-1), "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," January, 1980.
3. NUREG-0628, "NRC Staff Preliminary Analysis of Public Comments on Advance Notice of Proposed Rulemaking on Emergency Planning," January, 1980.
4. NUREG/CP-0011, "Proceedings of Workshops on Proposed Rulemaking on Emergency Planning for Nuclear Power Plants," January, 1980.

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 350

[Docket No. FEMA-PP-350]

Review and Approval of State Radiological Emergency Plans  
and Preparedness

AGENCY: Federal Emergency Management Agency (FEMA)

ACTION: Proposed Rule

SUMMARY: This rule proposes to establish policy and procedures for review and approval by FEMA of State emergency plans and preparedness for coping with the offsite effects of radiological emergencies which may occur at nuclear power facilities. The program the rule implements now focuses on operating and soon to be operating commercial nuclear power facilities. It does not cover other Nuclear Regulatory Commission (NRC) licensed facilities. The rule sets out criteria which will be used by FEMA in reviewing, assessing and evaluating these plans and preparedness; it specifies how and where a State may submit plans; it describes certain of the processes by which FEMA makes findings and determinations as to the adequacy of State plans and the capability of State and local government to implement these plans and preparedness measures. Such findings and determinations are to be submitted to the Governors of the affected States and to the NRC for use in licensing proceedings of the NRC.

DATE: Comments are due [within 60 days from date of publication].

It is intended to make the regulation effective immediately upon its adoption after the notice and public comment period.

ADDRESS: Send comments to Rules Docket Clerk, Federal Emergency Management Agency, Room 801, 1725 I Street, NW, Washington, DC 20472

ENCL. H

FOR INFORMATION CONTACT: John McConnell, Assistant Associate Director, Population Preparedness, telephone 202/566-0550.

SUPPLEMENTARY INFORMATION:

Presidential assignments:

On December 7, 1979, the President, in response to the recommendations of the President's Commission on the Accident at Three Mile Island (known as the Kemeny Commission) announced, in part, a series of decisions and took a number of actions in the area of emergency planning and preparedness, particularly with respect to offsite emergency planning and preparedness.

The President directed FEMA to

- (1) take the lead in offsite emergency planning and response;
- (2) complete by June 1980, the review of State emergency plans in those States with operating nuclear power facilities;
- (3) complete as soon as possible the review of State emergency plans in those States with nuclear power facilities scheduled for operation in the near future;
- (4) develop and issue an updated series of interagency assignments which delineate respective agency capabilities and responsibilities and clearly define procedures for coordination and direction for both emergency planning and response.

FEMA is presently reviewing existing State plans in accordance with the Presidential directive.



FEMA is also in the process of developing interagency assignments which will replace a description of assignments set out in a Notice published in the FEDERAL REGISTER on December 24, 1975 (40 FR 59494). These new assignments will be published by FEMA in separate rulemaking.

The rule in this part largely involves the process FEMA will use in taking the lead in offsite emergency planning and response. It follows-up the review of plans by a formal process for evaluation and approval by FEMA of State plans (which include local plans as annexes to the State plan) and evaluation and assessment of the adequacy of capabilities of State and local governments to implement the plans.

Basis for FEMA Assignment:

The Director, FEMA, pursuant to Reorganization Plan No. 3 of 1978 and Executive Order 12148 of July 20, 1979 establishes policies for, and coordinates all civil emergency planning, management, mitigation and assistance functions of the Executive agencies of the United States. The Director FEMA, represents the President in working with State and local governments and the private sector to stimulate vigorous participation in civil emergency preparedness, mitigation, response and recovery programs.

The term "civil emergency" is defined in 2-203 of Executive Order 12148 to include any accidental, natural, man-caused, wartime emergency or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property. This definition clearly encompasses an accident at a nuclear power facility.

Under section 201 of the Disaster Relief Act of 1974, (42 U.S.C. 5131) the Director is to establish a program of disaster preparedness which includes, among other matters, preparation of disaster preparedness plans, ~~for~~ warning, emergency operations, training and exercises, and coordination of Federal State and local programs. Further, the Director is to provide technical assistance to States in developing comprehensive plans and practical programs for preparation against disasters.

The agencies which were combined to form the nucleus of FEMA, as well as NRC had been for some years involved in planning for radiological emergencies at nuclear power facilities. These activities were largely voluntary, as neither Federal law nor regulations required States or local governments to have peacetime nuclear emergency plans, nor required States with plans to test those plans.

The Atomic Energy Commission (AEC) later NRC, implemented an essentially voluntary program of planning and assistance to the States which included: the formation of a Federal Interagency Central Coordinating Committee; the preparation and issuance of Guide and Checklist for Development and Evaluation of State and Local Government Radiological Emergency Response Plans in Support of Fixed Nuclear Facilities, reissued as NRC NUREG-75-111; and the formation of task forces on training and exercises and emergency instrumentation.

The Office of Emergency Planning (OEP), later the Federal Preparedness Agency (FPA) and now FEMA issued descriptions of agency assignments. In January 1973, the OEP issued a statement that the AEC, as lead agency, would provide planning assistance to State and local governments for the preparation of radiological emergency response plans.

On December 24, 1975, the FPA reissued a revised and updated FEDERAL REGISTER Notice (40 FR 59494). Lead agency responsibility for "reviewing and concurring in State radiological emergency response plans," was assigned to the NRC and the planning assistance was expanded to include transportation of radioactive materials. NRC also issued guidance to other Federal agencies. The number of involved agencies who all agreed to the assignments increased to eight. These included the Environmental Protection Agency (EPA), the Department of Health, Education and Welfare,

now the Department of Health and Human Services, (DHHS) and the Defense Civil Preparedness Agency (DCPA) whose functions have now been transferred to FEMA. Other agencies included the Department of Transportation (DOT), the Federal Disaster Assistance Administration (FDAA-HUD) (now a part of FEMA), and the Energy Research and Development Administration (ERDA) (now Department of Energy (DOE)).

This interagency process with NRC as lead agency continued for the next few years. NRC concurred in several State plans. The accident at the Three Mile Island nuclear power facility which occurred on March 28, 1979, caused a major rethinking of the whole area of emergency plans and preparedness by NRC and by other authorities. The accident led to the Kemeny Commission Report and the Presidential actions.

To implement the President's assignment, NRC and FEMA on January 14, 1980, signed a Memorandum of Understanding (MOU) describing each agency's responsibilities in preparing for emergencies at nuclear facilities and activities (45 FR 5847).

The agreement applies to emergency preparedness for all commercial nuclear power plants, certain nuclear fuel cycle facilities, and nuclear materials licensees whose operations have a potential for significant accidental offsite releases of radiation. For the <sup>first</sup> six months, however, the parties intended that the program emphasis be placed on emergency preparedness at commercial nuclear power plants. This rule deals only with nuclear power facilities.

Among other matters under the MOU, FEMA will:

(1) Review State and local emergency plans and determine whether they are adequate and capable of implementation (for example, determine the adequacy of procedures, training, resources, staffing levels, and qualifications and equipment); further FEMA will continue to monitor this capability or "preparedness" of States and localities;

(2) Develop and issue an updated series of interagency assignments for emergency planning and response.

NRC's responsibilities under the agreement are to:

(1) Assess the adequacy of licensees' emergency plans;

(2) Verify that licensees' emergency plans are adequately implemented;

(3) Make decisions on the overall state of emergency preparedness (that is, licensee plans and State and local plans considered as a whole) in connection with the issuance of operating licenses or the shutdown of operating reactors.

Thus, the lead for review of the adequacy of offsite emergency plans and their capability of implementation has been transferred to FEMA and there is no longer an NRC voluntary concurrence program for State emergency plans. This activity is now ended, and to that extent the notice of December 24, 1975, is superseded. The previous NRC "concurrences" do not satisfy the requirement for FEMA approval of State and local plans under this regulation.

FEMA review and findings and determination will be based upon guidance jointly issued by FEMA and NRC entitled Criterial for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (NUREG-0654/FEMA-REP-1). This guidance and acceptance criteria provides a basis for NRC licensees and State and local governments to develop radiological emergency plans and improve emergency preparedness associated with nuclear power facilities. The document combines the guidance to State and local governments with that which applies as a matter of regulation to the licensees of NRC and supersedes previous guidance and criteria published by FEMA and NRC. It is intended for use by reviewers in determining the adequacy of State, local and nuclear power plant operator emergency plans and preparedness. FEMA REP 1 contains a series of detailed planning objectives (which are part of this rule) and a listing of specific items of guidance to State and local governments as well as specific requirements concerning planning and preparedness activities of the licensees of NRC. The document is presently being revised as a result of public comment submitted pursuant to a Notice published on February 13 at 45 FR 9768.

Additional material relevant to this rule may be found in the NRC rule making proceedings on Emergency Planning and in this materials cited therein.

NRC retains overall responsibility for making ~~em~~ decisions under their enabling legislation in determining whether licenses should be issued or operations suspended. NRC expects to evaluate deficiencies, if any, identified by FEMA to ascertain whether those deficiencies are significant and if they are significant, determine whether compensatory measures have been or will be taken by the licensee.

FEMA's approval of State and local plans and preparedness should be considered independently of any rules of the NRC with respect to its licensing proceedings. The rule proposed in this part is in no way dependent upon any authority available to the NRC. However, recognition must be given to the fact that the NRC under its rule now will base its findings on a review of FEMA findings and determination as to whether State or local plans are adequate and capable of being implemented. The regulation described in this part is designed with that FEMA review function in mind. Proposed section 350.12(f) provides an appeal procedure to the Director from the decision of the Associate Director. Procedures for processing appeals are not established as yet but will be incorporated in the final rule or will be the subject of a separate rule dealing with appeals in Federal Emergency Management Agency programs generally.

This regulation describes a procedure by which FEMA evaluates and assesses State and local emergency plans and preparedness to deal with a radiological emergency, and "approve" such plans. Further, FEMA may use the data obtained in its approval process in connection with a consultation role in Nuclear Regulatory Commission licensing proceedings.

Insofar as FEMA is concerned, there is no requirement in law that a State or local government submit its plan to FEMA, and FEMA's failure to approve such plan is not accompanied by any sanction or refusal to accord a benefit. Insofar as the procedure may have economic, environmental or legal consequences or impact, these result from NRC action on its rule and from the role which FEMA plays because of the MOU in the NRC licensing process. NRC has in connection with its rule adopted a "Finding of No Significant Impact" and has made an environmental assessment which covers actions covered by this regulation. In the interest of reducing paperwork and pursuant to CEQ regulations 40 CFR 1506.3, FEMA herein adopts as part of its own decision making process that part of the NRC assessment applicable to this rule. For the final rule FEMA plans to develop its own assessment.

Further the NRC statement addresses the subject of cost, and it is clear from this that neither the NRC rule, nor this FEMA rule is a significant regulation which requires a regulatory analysis under Executive Order 12148.

*Pending adoption of the final rule, FEMA intend to use generally, the process described herein as "approval" of any plan which might be submitted to it.*



Accordingly, it is proposed to amend Subchapter E of Chapter I, Title 44 Code of Federal Regulations by adding a new Part 350 as follows:

**PART 350: Review and Approval of State Radiological Emergency Plans and Preparedness.**

**Sec.**

- 350.1 Purpose
- 350.2 Definitions
- 350.3 Background
- 350.4 Exclusions
- 350.5 Criteria for Review and Approval of State and local Radiological Emergency Plans and Preparedness
- 350.6 Assistance in the Development of State and Local Plans
- 350.7 Application by State for Review and Approval
- 350.8 Initial FEMA Action on State Plan
- 350.9 Exercises
- 350.10 Public Meeting in Advance of FEMA Approval
- 350.11 Action by FEMA Regional Director
- 350.12 FEMA Headquarters Review and Approval
- 350.13 Withdrawal of Approval
- 350.14 Amendment to State Plans

Authority: 42 U.S.C. 5131, 5201, 50 U.S.C. App. 2253(g) Reorganization Plan No. 3 of 1978 (3 CFR 1973 Comp. p. 329), Executive Order 12127 (44 F.R. 19367), Executive Order 12148 (44 F.R. 43239)

**§ 350.1 Purpose.**

The purpose of the regulation in this part is to establish policy and procedures for review and approval by the Federal Emergency Management Agency (FEMA) of State and local emergency plans and preparedness for the off site effects of a radiological emergency which may occur at a nuclear power facility. Review and approval of these plans and preparedness involves preparation of findings and determinations with respect to the adequacy of the plans and the capabilities of State and local governments effectively to implement the plans.

§ 350.2 Definitions.

As used in this part the following terms have the following meanings:

Director means, the Director, Federal Emergency Management Agency;

Regional Director means a Regional Director of the Federal Emergency Management Agency;

Associate Director means Associate Director, Plans and Preparedness (FEMA);

NRC means the Nuclear Regulatory Commission;

EPZ means Emergency Planning Zone.

§ 350.3 Background.

(a) On December 7, 1979, the President directed the Director to head up all offsite emergency planning and preparedness activities with respect to nuclear power facilities. This included a review of the existing emergency plans both in States with operating reactors, and those with plants scheduled in operation in the near future.

(b) This assignment was given to FEMA in view of its responsibilities under Executive Order 12148 to establish Federal policies for, and coordinate all civil emergency planning, management and assistance functions, and to represent the President in working with State and local governments and the <sup>vate</sup> ~~private~~ <sup>or</sup> ~~section~~ to stimulate vigorous participation in civil emergency preparedness programs. Under Section 201 of the Disaster Relief Act of 1974 (42 U.S.C. 5131), and other statutory functions, the Director, FEMA, is charged with the responsibility to develop and implement plans and programs of disaster preparedness.

(c) To carry out these responsibilities, FEMA is engaging in a cooperative effort with State and local governments and other Federal agencies in the development of State and local plans and preparedness to cope with the offsite effects resulting from radiological emergencies at nuclear power facilities.

(d) FEMA has entered into an arrangement with the NRC to which it will furnish assessments, findings and determinations as to whether State and local emergency plans and preparedness are adequate and continue to be capable of implementation (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualification and equipment adequacy). These findings and determinations can be used by NRC under its own rules in connection with its licensing and regulatory requirements and FEMA will support NRC as requested.

§ 350.4 Exclusion.

The regulation in this part does not apply to, nor will FEMA apply any criteria with respect to, any evaluation, assessment or determination regarding the NRC licensee's emergency plans or preparedness, nor shall FEMA make any similar determination with respect to integration of offsite and NRC licensee emergency preparedness except as such affects the emergency <sup>preparedness</sup> ~~preparedness~~ of State and local governments. This regulation, in this part, applies only to State and local planning and preparedness with respect to emergencies at nuclear power facilities and does not apply to other facilities which may be licensed by NRC.

§ 350.5 Criteria for review and approval of State and local radiological emergency plans and preparedness.

(a) The following joint NRC-FEMA planning objectives, which apply insofar as NRC is concerned to licensees, and insofar as FEMA is concerned to State and local governments are to be used in evaluating, assessing, reviewing and approving State and local radiological emergency plans and preparedness and in making any findings and determinations with respect to the adequacy of the plans and the capabilities of State and local governments to implement the plans.

(1) Primary responsibilities for emergency response in nuclear facility operator, State and local organizations within the Emergency Planning Zones have been assigned, the emergency responsibilities of the various supporting organizations have been specifically established, and each principal response organization has staff to respond and to augment its initial response on a continuous basis.

(2) On-shift facility operator responsibilities for emergency response are unambiguously defined, adequate staffing to provide initial facility accident response in key functional areas is maintained at all times, and timely augmentation of response capabilities is available, and the interfaces among various onsite response activities and offsite support and response activities are specified.

(3) Arrangements for requesting and effectively using assistance resources have been made, arrangements to accommodate State and local staff at the operator's near-site Emergency Operations Facility have been made, and other organizations capable of augmenting the planned response have been identified.

(4) A standard emergency classification and action level scheme whose bases include facility system and effluent parameters is in use by the nuclear facility operator, and State and local response organizations have included appropriate actions in their emergency plan for each class of emergency.

(5) Procedures have been established for notification, by the facility, of State and local response organizations and for notification of emergency personnel by all response organizations; the content of initial and followup messages to response organizations and the public have been established; and means to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone have been established.

(6) Provisions exist for prompt communications among principal response organizations, to emergency personnel and to the public.

(7) Information is made available to the public on how they would be notified and what their initial actions should be in an emergency; the principal points of contact with the news media for dissemination of information during an emergency (including physical location or locations) are established in advance; and procedures for coordinated dissemination of information to the public are established.

(8) Adequate emergency facilities and equipment to support the emergency response are provided.

(9) Adequate methods, systems and equipment for assessing and monitoring actual or potential offsite consequences of a radiological emergency condition are in use.

(10) A range of protective actions has been developed for the plume exposure pathway for emergency workers and the public, guidelines for the choice of protective actions during an emergency, consistent with Federal guidance, are developed and in use, and protective actions for the ingestion exposure pathway appropriate to the locale have been developed.

(11) Means for controlling radiological exposures, in an emergency, are established for the affected population and emergency workers. The means for controlling radiological exposures shall include exposure guidelines consistent with EPA Protective Action Guides.

(12) Arrangements are made for medical services for contaminated injured individuals.

(13) General plans for recovery and reentry are developed.

(14) Periodic exercises are conducted to evaluate major portions of emergency response capabilities, periodic drills are conducted to develop and maintain key skills; deficiencies identified as a result of exercises or drills are corrected.

(15) Radiological emergency response training is provided to those who may be called upon to assist in an emergency.

(16) Responsibilities for plan development, review and distribution of emergency plans are planners who are properly trained.

(b) In order for State or local plans and preparedness to be approved, such plans and preparedness must be determined to adequately protect the public health and safety and to provide reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency. Plans and preparedness will be measured against the objectives set forth in subsection (a) and as detailed in FEMA REP 1 and other criteria as specified in this part.

§ 350.6 Assistance in development of State and local plans.

(a) An integrated approach to the development of offsite radiological emergency plans by States, localities and the licensees of NRC with the assistance of the Federal Government is the approach <sup>most</sup> likely to provide the best protection to the public. Hence Federal agencies, including FEMA regional staff, will be made available upon request to assist State and localities in the development of plans.

(b) There now exists in each of the ten Standard Federal Regions, a Regional Assistance Committee (RAC) chaired by a FEMA regional official and having members from NRC, <sup>HHS</sup> ~~HEW~~, DOE, DOT, EPA, and Agriculture. <sup>spell out</sup> The basic functions of the RAC are to assist State and local government officials in preparing and revising radiological emergency plans, and improving the preparedness capabilities of State and local governments for dealing with accidents and emergencies at commercial nuclear power facilities.

(c) In accomplishing the foregoing, the RACs will use the criteria in FEMA-REF-1, and will render such technical assistance as may be required. The RACs will also observe and evaluate exercises and identify in a timely fashion deficiencies in the planning and preparedness effort including deficiencies in resources, training of staff, equipment, staffing levels, and deficiencies in the qualifications of personnel.

§ 350.7 Application by State for review and approval.

(a) A State which seeks review and approval by FEMA of the State's radiological emergency plan, with annexes (which for purposes of this

part includes the plans of all local governments for all jurisdictions wholly or partially with the plume exposure pathway EPZ for the applicable nuclear power facility <sup>and</sup> for the evacuation host jurisdictions), shall submit an application for such review and approval to the FEMA Regional Director of the Region in which the State is located. The application, in the form of a letter from the Governor or from such other State official as the Governor may designate, shall contain one copy of the completed State plan, including the plan for the ingestion pathway.

(b) Generally, the plume exposure pathway EPZ for nuclear power facilities shall consist of an area about 10 miles (16 Km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 Km) in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power reactor shall be determined in <sup>relation</sup> ~~reaction~~ 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 size of the EPZs may be determined jointly on a case-by-case basis by FEMA and NPC for gas cooled reactors and for reactors with an authorized power level less than 250 Mw thermal. The plans for the ingestion pathway shall focus on such actions as are appropriate to protect the food ingestion pathway.

(c) FEMA and the States will make suitable arrangements in the case of overlapping or adjacent jurisdictions to permit an orderly assessment and approval of interstate or interregional plans.

(d) Only a State may request review of a State or local radiological emergency plan. The States/ will designate the local government plans which will be submitted as annexes to the State plan.



(e) A State may submit separately its and the local government plans specific to the plume exposure pathway emergency planning zones for individual nuclear power facilities. If this is done appropriate adjustments in the State plan may be necessary.

(f) The application shall contain a statement that the State plan, together with its annexes, is, in the opinion of the State, adequate to protect public health and safety of its citizens living within the emergency planning zones for the ~~commercial~~ nuclear power facilities included in the submission and provides reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency.

(g) The purpose of separate submissions is to allow approval of a State plan, and of the plan<sup>s</sup> necessary for specific nuclear power facilities in a multi-facility State, while not approving or acting on the plans necessary for other nuclear power facilities within the State.

§ 350.8 Initial FEMA action on State plan.

(a) The Regional Director shall acknowledge in writing the receipt of such an application to the State within ten days of its receipt.

(b) FEMA shall cause to be published in the FEDERAL REGISTER within 30 days after receipt of the application, notice that an application from a State has been received and that copies are available at the Regional Office for review and copying in accordance with Section 5.26 and Appendix A to Part 5 of this chapter.

(c) The Regional Director shall furnish copies of the plan to members of the RAC for their analysis and evaluation.

(d) The Regional Director shall make a detailed review of the plan together with its annexes, and will assess the capability of the State or local governments to effectively implement the plan. Such review should, in addition to application of the criteria specified in Section 350.5, consider (1) the integration of planning by the NRC licensee, by the localities around the nuclear facility and by the State, and the linkage between plans, and (2) elements dealing with notification, communications, public information, equipment, accident assessment, drills and exercises and emergency planning zones recommended by FEMA, NRC and EPA for planning around nuclear power facilities.

(e) In connection with the review, the Regional Director may make suggestions to States concerning perceived gaps or deficiencies in the plans, and the State may amend the plan at any time.

(f) Two conditions for FEMA approval of State plans (including local government annexes) calls for activity prior to or during regional review. These are the requirement for a complete exercise, see § 350.9 of this part, and for public participation, see § 350.10 of this part.

§ 350.9 Exercises.

(a) FEMA approval of State plans (and appropriate local government annexes) shall in each case be site specific.

(b) Prior to the submission by a State of a request for review and approval of a State plan, and annexes, or, in any event, before a Regional Director can forward a State plan and annexes to the Associate Director for Plans and Preparedness for approval, the State together with all necessary local governments must conduct a complete exercise of that State

plan, involving participation of appropriate local government entities and the appropriate licensee of NRC. This exercise shall be observed and evaluated by FEMA and to the extent possible by representatives of other agencies with membership on the RACs. Following the debriefing of all involved parties, if the exercise discloses any deficiencies in the State plan, or the ability of the State to implement it, the FEMA representatives shall make them known promptly in writing to appropriate State officials and, to the extent necessary, the State shall amend the plan to incorporate recommended changes or improvements.

(c) The Regional Director of FEMA shall be the FEMA official responsible for certifying to the Associate Director that a complete exercise of the State plan has been conducted, and that any deficiencies noted in the exercise has been corrected and such corrections incorporated in the plan.

(d) On an annual basis, all commercial nuclear power facilities will be required by NRC to exercise their plans and the exercises should involve annual exercising of the appropriate local government plans in support of these facilities. The State may choose to limit its participation in exercises at facilities other than the facility (site) chosen for the annual exercise(s) of the State plan.

(e) For continued FEMA approval each State and appropriate local governments shall conduct an exercise jointly with a commercial nuclear power facility annually. However, States with more than one facility (site) shall schedule exercises such that each individual facility (site) is exercised in conjunction with the State and appropriate local government

plans no less than once every three years for sites with the plume exposure pathway EPZ partially or wholly within the State and not less than once every five years for sites with the ingestion exposure pathway EPZ partially or wholly within the State. The State shall choose, on a rotational basis, the site(s) at which the required annual exercise(s) is to be conducted, and priority shall be given to new facilities seeking an operating license from NRC, and which have not had an exercise involving the State plan at that facility site.

(f) After FEMA approval of a State plan has been granted, failure to exercise the State plan at least once each year shall be grounds for withdrawing FEMA approval (see Section 350.13).

§ 350.10 Public meeting in advance of FEMA approval.

During the FEMA Regional Office review of a State plan, and prior to the submission by the Regional Director of the plan to the Associate Director, the FEMA Regional Director shall assure the conduct of at least one public meeting in the vicinity of the nuclear power facility. The purpose of such a meeting, which may be conducted by the State or by the Regional Director, shall be to acquaint the members of the public in the vicinity of each facility with the content of the State and related local plans; to answer any questions about the FEMA review and to receive suggestions from the public concerning improvements or changes that may be necessary; and to describe to the public the way in which the plan is expected to function in the event of a real emergency. The Regional Director should assure that representatives from appropriate State government agencies, local and county agencies and the affected utility

appear at such meetings to make presentations and to answer questions from the public. These meetings shall be noticed in the local newspaper having the largest circulation in the area on at least two occasions at least two weeks before the meeting takes place. Local radio and television stations should be notified of the scheduled meeting at least one week in advance. Representatives from NRC and other appropriate Federal agencies should also be invited to participate in these meetings. If, in the judgment of the FEMA Regional Director, the public meeting or meetings reveal gaps or deficiencies in the State plan, the Regional Director shall inform the State of the fact together with recommendations for improvement.

No FEMA approval of a State plan shall be made until a meeting described in this paragraph shall have been held at or near each nuclear power facility identified in the plan for which the State is seeking approval.

§ 350.11 Action by FEMA Regional Director.

(a) Upon completion of his/her review including conduct of the exercise required by Section 350.9 and after the public meeting required by Section 350.10, the Regional Director shall prepare an evaluation of the State plan, including plans for local governments. Such evaluation shall be specific with respect to the plans applicable to each nuclear facility so that findings and determinations can be made by the Associate Director on a site specific basis.

(b) The Regional Director shall evaluate the adequacy of State and local plans and preparedness on the basis of the criteria set forth in Section 305.5, and shall report that evaluation with respect to each of the planning objectives mentioned therein as such apply to State and local plans and preparedness. The Regional Directors evaluation report may also address any of the other criteria contained in FEMA REP 1 (NUREG 654) "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," or in other guidance issued by FEMA or by NRC as such apply to State and local offsite radiological emergency plans and preparedness. This evaluation will not include a recommendation on approval.

(c) The Regional Director shall forward the State plan together with his or her ~~evaluation~~<sup>evaluation</sup> and other relevant record material to the Associate Director for Plans and Preparedness.

§ 350.12 FEMA Headquarters review and approval.

(a) Upon receipt from a Regional Director of a State plan, the Associate Director for Plans and Preparedness shall cause copies of the plan together with the Regional Director's evaluation to be distributed to the members of the Federal Interagency Central Coordinating Committee (FICCC) and to other offices of FEMA with appropriate guidance relative to their assistance in the FEMA review process.

(b) The Associate Director shall conduct such review of the State plan as he or she shall deem necessary.

(c) Within 30 days after submission of the State plan by the Regional Director, the Associate Director, in writing, shall, if he or she finds and determines that the State plans and preparedness:

(1) are adequate to protect the health and safety of the public living in the vicinity of the nuclear power facility;

(2) are capable of being implemented (see Section 350.3(d));  
and

(3) provide reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency;

then the Associate Director shall approve the State plan. The Associate Director shall communicate this FEMA approval to the Governor of the State in question and the NRC and immediately shall cause to be published in the FEDERAL REGISTER a notice to this effect.

(d) If the Associate Director is not satisfied with the adequacy of the plan or preparedness, he or she shall communicate that decision to the Governor of the State, to any involved licensee, or other interested person, together with a statement in writing explaining the reasons for the decision and requesting appropriate plan or preparedness revisions. Such statement shall be transmitted to the Governor through the Regional Director.

(e) The approval shall be of the State plan together with the local plans (which are annexes to the State plan) for each nuclear power facility (including out of State facilities) for which plans are necessary in the State. FEMA may withhold approval of plans applicable to a specific nuclear power facility in a multi-facility State, but nevertheless approve the State plan and associated local plans applicable to other facilities in a State.

(f) Within 30 days after the date of notification of approval for a particular nuclear power facility or within 30 days of any statement of inadequacy or ~~with~~ withdrawal of approval of a State plan, any interested person may appeal the decision of the Associate Director to the Director; however, such appeal must be made solely upon the ground that the Associate Director's decision, based on the available record, was unsupported by substantial evidence.

§ 350.13 Withdrawal of approval.

If, at any time after granting approval of a State plan, the Associate Director determines, on his or her own motion or on the basis of information supplied by a third person, that the State plan is no longer adequate to protect public health and safety, is no longer capable of being implemented, or does not provide reasonable assurance that appropriate protection measures can be taken, he or she shall immediately advise the Governor of the affected State and NRC of that initial determination in writing. FEMA shall spell out in detail the reasons for its initial determination and shall describe the deficiencies in the plan or the preparedness of the State. If, after four months from the date of such an initial determination, the State in question has not (1) either corrected the deficiencies noted, or (2) submitted an acceptable plan for correcting those deficiencies, the Associate Director shall withdraw approval, and shall immediately inform NRC and the Governor of the affected State, of the determination to withdraw approval and shall cause to be published in the FEDERAL REGISTER and the newspaper having the largest daily circulation in the affected State, notice of its withdrawal of approval. Such action by the Associate Director is subject to the appeal procedure specified in Section 350.12(f).



In the event that the State in question shall submit a plan for correcting the deficiencies, the Associate Director shall negotiate a schedule and timetable under which the State shall cure the deficiencies. If, on the agreed upon date, the deficiencies have been cured, the Associate Director shall withdraw the initial determination and the approval previously granted shall remain <sup>valid.</sup> ~~valid~~. If, however, on the agreed upon date, the deficiencies are not cured, FEMA shall withdraw its approval and shall communicate its decision to the Governor in question, to the NRC, to the agencies making up the FICCC, and to the public.

§ 350.14 Amendments to State plans.

The State may amend a plan submitted to FEMA for review and approval under Section 350.11 at any time during the review process or at any time after FEMA approval shall have been granted. A State should amend its plan in order to extend the coverage of the plan to any new nuclear power facility which becomes operational after a FEMA approval. The approved State plan shall remain in effect while any amendment is under review.