

COMMISSION BRIEFING

ON

FINAL RULE

ON

EMERGENCY PREPAREDNESS

JUNE 18, 1980

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~~CONFIDENTIAL~~

B A C K G R O U N D / C H R O N O L O G Y

- . ADVANCE NOTICE OF PROPOSED RULEMAKING - JULY 17, 1979
- . PROPOSED REGULATION PUBLISHED IN FED. REGISTER - DEC. 19, 1979
- . WORKSHOPS & PUBLIC MEETINGS - JANUARY 1980
- . PUBLIC COMMENT PERIOD ENDED - FEBRUARY 15, 1980
- . STAFF BRIEFED COMMISSION ON MAJOR ISSUES & COMMENTS - MARCH 26, 1980
- . ACRS REVIEW OF PROPOSED REGULATION - MAY 1, 1980
- . ACRS REVIEW OF STAFF PROPOSED FINAL REGULATION - JUNE 5, 1980
- . STAFF BRIEFS COMMISSION ON FINAL RULE - JUNE 18, 1980
- . COMMISSION MEETS WITH PUBLIC PANELS - JUNE 1980

PUBLIC COMMENTS

- . OVER 200 LETTERS RECEIVED
- . MANY COMMON ITEMS
- . ALL SIGNIFICANT ISSUES IDENTIFIED AT WORKSHOPS
- . DIVERGENT VIEWS ON SOME ISSUES
- . GENERAL AGREEMENT THAT EMERGENCY PREPAREDNESS SHOULD BE IMPROVED

RECENT DEVELOPMENTS

- . ACRS COMMENTS & RECOMMENDATIONS

- . SENATE/HOUSE CONFERENCE REPORT ON NRC FY 80 AUTHORIZATION BILL, JUNE 4, 1980
 - . ADEQUATE EMERGENCY PREPAREDNESS CONDITION FOR LICENSING

 - . NRC CONSULTATION WITH DIRECTOR OF FEMA

 - . ESTABLISH BY RULE STANDARDS FOR STATE PLANS

 - . MECHANISM TO ENCOURAGE & ASSIST STATES

 - . HIGH PRIORITY ON DEVELOPMENT OF NEW RULES

MAJOR ISSUES PREVIOUSLY DISCUSSED WITH COMMISSION

- 1) NRC "CONCURRENCE" IN STATE & LOCAL PROGRAMS
- 2) NRC/FEMA RESPONSIBILITIES & RELATIONSHIP
- 3) REQUIREMENT FOR CAPABILITY FOR 15 MIN. NOTIFICATION OF PUBLIC
- 4) IMPLEMENTATION SCHEDULE
- 5) STATE AND LOCAL GOVERNMENT "VETO POWER"
- 6) FUNDING FOR STATES & LOCAL GOVTS
- 7) ALTERNATIVE PROVISIONS IN PROPOSED RULE

NRC "CONCURRENCE" IN STATE & LOCAL PROGRAMS

ISSUE: AMBIGUOUS & CONFUSED WITH OLD NRC VOLUNTARY & STATE WIDE CONCURRENCE
RELATIONSHIP TO FEMA REVIEW & FINDINGS

STAFF RESOLUTION:

- DELETE NRC "CONCURRENCE" FROM RULE & REPLACE WITH:
- . NRC FINDING ON OVERALL EMERGENCY PREPAREDNESS
 - . WILL CONSIDER FEMA FINDINGS ON STATE/LOCAL PLANS
 - . PLANNING OBJECTIVES FROM NUREG-0654 IN RULE

NRC / FEMA RESPONSIBILITIES & RELATIONSHIP

ISSUE: NEEDED CLARIFICATION & EXPANSION
 FEMA RESPONSIBILITIES EVOLVED DURING RULEMAKING

STAFF RESOLUTION:

GENERAL PROCEDURE THAT FEMA & NRC AGREED UPON IN MOU PLACED IN REGULATION

- . FEMA MAKES FINDING & DETERMINATION ON ADEQUACY OF STATE & LOCAL GOVT PLANS
- . NRC MAKES FINDING ON ADEQUACY OF LICENSEE EMERGENCY RESPONSE PLANS
- . NRC MAKES LICENSING FINDING AS TO THE OVERALL ADEQUACY OF EMERGENCY PREPAREDNESS

REQUIREMENT FOR CAPABILITY FOR 15 MIN. NOTIFICATION OF PUBLIC

ISSUE:

CONFUSION RELATIVE TO:

- . LICENSEE NOTIFICATION OF STATE/LOCAL VS. STATE/LOCAL NOTIFICATION OF PUBLIC
- . ACTUAL NOTIFICATION VS. CAPABILITY
- . OBJECTIVE OF PUBLIC NOTIFICATION
- . FRACTION OF PUBLIC THAT MUST BE NOTIFIED

DIFFICULTY & EXPENSE

REGULATION BY FOOTNOTE

ACRS COMMENTED ON THIS ISSUE - RECOMMEND CONSIDERATION OF "STAGED" NOTIFICATION SYSTEM

STAFF RESOLUTION:

CLARIFICATION THAT:

- . LICENSEE TO NOTIFY STATE/LOCAL GOVT. WITHIN 15 MIN. AFTER DECLARING EMERGENCY
- . STATE/LOCAL GOVT HAVE CAPABILITY TO NOTIFY PUBLIC WITHIN 15 MIN. AFTER NOTIFICATION BY LICENSEE
- . REQUIREMENT MOVED INTO BODY OF REGULATION AS A "DESIGN OBJECTIVE"

IMPLEMENTATION SCHEDULE

ISSUE: LICENSEES & STATE/LOCAL GOVTS - IMPLEMENTATION SCHEDULE TOO SHORT FOR
ENTIRE REG, BUT ESPECIALLY FOR 15 MIN. NOTIFICATION REQUIREMENT

GENERAL PUBLIC - PLANTS SHOULD BE SHUT DOWN UNTIL EMER. PLANS IMPLEMENTED

STAFF RESOLUTION:

- . IMPLEMENTATION OF 15 MIN NOTIFICATION CAPABILITY EXTENDED TO JULY 1981

- . IMPLEMENTATION FOR REMAINDER OF REGULATION CONTINUES TO BE JANUARY 1981

STATE & LOCAL GOVT "VETO POWER"

ISSUE: FAILURE OF STATE OR LOCAL GOVT TO DEVELOP &/OR IMPLEMENT AN ACCEPTABLE EMERGENCY PLAN FOR ANY REASON COULD EFFECTIVELY BLOCK LICENSING &/OR OPERATION OF A PLANT

ACRS COMMENTED ON THIS ISSUE - REQUESTED CLARIFICATION OF COMMISSION'S INTENTIONS IN THIS REGARD

STAFF RESPONSE:

- . POSSIBILITY SPECIFICALLY RECOGNIZED IN SUPPLEMENTAL INFO ACCOMPANYING RULE
- . OTHER POTENTIAL STATE & LOCAL "VETOS" ALREADY EXIST, I.E. BLDG PERMITS
- . EXPECTATION THAT STATE & LOCAL GOVTS WILL ACT RESPONSIBLY & PROVIDE FOR PUBLIC SAFETY
- . HAS NOT BEEN A PROBLEM IN ANY OF ONGOING REVIEWS OF EMER. PLANNING FOR OPER. REACTORS - HAS GENERALLY REDUCED TO A QUESTION OF FUNDING
- . NEVERTHELESS, COULD BECOME A MAJOR PROBLEM IN SOME FUTURE LICENSING CASES

FUNDING FOR STATE & LOCAL GOVTS

ISSUE: INADEQUATE OR DELAYED FUNDING COULD PRECLUDE OR DELAY EMERGENCY PLANNING AND/OR IMPLEMENTATION

SOME STATE/LOCAL GOVTS DO NOT HAVE RESOURCES

SIGNIFICANT FEDERAL ASSISTANCE FUNDING NOT LIKELY

ONGOING, NOT ONE TIME, REQUIREMENT

STAFF RESOLUTION:

SUPPLEMENTAL INFO ACCOMPANYING RULE STATES THAT UTILITY MAY HAVE INCENTIVE TO PROVIDE FUNDS TO STATE & LOCAL GOVTS

ONGOING REVIEWS OF EMERGENCY PLANNING FOR OPERATING REACTORS INDICATES THAT ADEQUATE FUNDING IS PROVIDED IN SOME WAY

ANY FEDERAL FUNDING SHOULD COME THRU FEMA

ALTERNATIVE PROVISIONS IN PROPOSED RULE

SIX PAIRS OF ALTERNATIVES WERE PRESENTED IN THE PROPOSED RULE

- . ALTERNATIVES IN SECTIONS 50.47, 50.54(s) & (t) → ALTERNATIVE A - COMMISSION ACTION TO REQUIRE SHUTDOWN
ACTIONS IF OVERALL EMER PREPAREDNESS NOT ADEQUATE
ALTERNATIVE B - AUTOMATIC SHUTDOWN UNLESS EXEMPTION REQUESTED & GRANTED

- . ALTERNATIVES IN APPENDIX E, SECT II & III
REF IN RULE TO PROPERTY
ALTERNATIVE A - REQUIRES MEASURES TO PREVENT DAMAGE TO PROPERTY
→ ALTERNATIVE B - NO REFERENCE TO PROPERTY DAMAGE

- . ALTERNATIVE IN APPENDIX E
FREQUENCY OF EXERCISES
ALTERNATIVE A - EXERCISES INVOLVING FEDR AGENCIES EVERY 3 YEARS
→ ALTERNATIVE B - EXERCISES INVOLVING FEDR AGENCIES EVERY 5 YEARS

STAFF PROPOSED ALTERNATIVE →

ACRS REVIEW

ACRS SUBCOMM. REVIEWED PROPOSED RULE - APRIL 22, 1980

FULL ACRS REVIEWED PROPOSED RULE - MAY 1, 1980

LTR TO COMMISSION DATED MAY 6, 1980

ALL ITEMS RESOLVED TO ACRS SATISFACTION IN FINAL RULE EXCEPT 3,
WHICH WERE ONLY PARTIALLY RESOLVED

ACRS SUBCOMM. REVIEWED STAFF PROPOSED FINAL RULE - MAY 22, 1980

FULL ACRS REVIEWED STAFF PROPOSED FINAL RULE - JUNE 5, 1980

LTR TO COMMISSION DATED JUNE 11, 1980

REPEATED SAME 3 ITEMS

ACRS REMAINING COMMENT / RECOMMENDATIONS

- # 1. NRC-FEMA APPROACH SHOULD ENCOURAGE STATE & LOCAL GOVTS TO INCORPORATE NUCLEAR EMER PLANS INTO THEIR PLANS FOR OTHER TYPES OF EMER SITUATIONS

SUPPL INFO ACCOMPANYING RULE CLARIFIES THAT REQUIRED OBJECTIVES MAY BE BLENDED WITH NON-NUCLEAR EMER PLANS

- . FEMA'S LONG TERM PLANS ARE TO COORD & COMBINE PLANS
- . CURRENTLY, NUCLEAR PLANS GENERALLY LEAD OTHER EMER PLANNING EFFORTS
- . STAFF BELIEVES INTENT OF ACRS RECOMMENDATION WILL BE MET

STAFF RECOMMENDATION - SUPPL INFO ADEQUATE

NO CHANGE IN RULE

ACRS REMAINING COMMENT / RECOMMENDATIONS

#2. INCORPORATE "STAGED" NOTIFICATION CONCEPT IN RULE ITSELF

- . SUPPL INFO ACCOMPANYING RULE CLARIFIES THAT RULE PERMITS THIS TYPE OF IMPLEMENTATION: BUT, THAT CAPABILITY FOR 15-MIN NOTIFICATION THRUOUT PLUME EPZ IS REQUIRED

- . SIMILAR WORDS COULD EASILY BE INCORPORATED IN RULE: BUT

- . CLARIFYING INFO ON INHERENTLY PERMITTED ACTIVITIES APPROPRIATE IN SUPPL INFO BUT NOT IN RULE

STAFF RECOMMENDATION - SUPPL INFO ADEQUATE

NO CHANGE IN RULE

ACRS REMAINING COMMENT / RECOMMENDATIONS

- #3. STATE & LOCAL GOVT "VETO POWER" - ACRS REQUESTED CLARIFICATION OF COMMISSION'S INTENTIONS IN THIS REGARD
- . POSSIBILITY IS INHERENT IN THE BASIC CONCEPT OF THE RULE
 - . ACTUAL SITUATION IS UNLIKELY
 - . IF IT DEVELOPS, ADEQUATE PROVISIONS TO ASSURE HEALTH & SAFETY OF PUBLIC MUST TAKE PRECEDENCE

STAFF RECOMMENDATION - COMMISSION'S POSITION IS CLEAR

NO FURTHER ACTION IS NECESSARY