



OFFICE OF THE GOVERNOR

STATE CAPITOL

AUSTIN, TEXAS 78711

November 29, 1979

WILLIAM P. CLEMENTS, JR.
GOVERNOR

Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Attention: Docketing and Service

Dear Mr. Secretary:

The following comments are submitted in reference to draft guidelines published as NUREG-0610, DRAFT EMERGENCY ACTION LEVEL GUIDELINES FOR NUCLEAR POWER PLANTS. The comments consist of general observations concerning Federal, State and local responsibility for warning and response to disaster situations, both natural and man-caused; followed by comments addressing specific initiating conditions and/or suggested response as proposed in NUREG-0610. The concluding comments in this submission are an assessment of the apparent thrust of NRC regulations as they apply to fixed nuclear facility operations and more specifically to nuclear power plants.

SECTION I

Both constitutionally and by statute, responsibility for disaster preparedness, response and recovery lies with government rather than with private or corporate enterprise. Prediction and warning of natural disaster, especially weather-related disaster, is a mission of the National Weather Service. Dissemination of such warning, monitoring and reporting of disaster occurrences, and response to needs generated by such occurrences are statutory responsibilities of Federal, State and local government. Responsibility for law enforcement, including security of private and public property and protection of such property from hostile or illicit action, are also well defined by constitution and statute. The presence of a nuclear power plant within any given political subdivision of a state does not alter government responsibility at any level; and any effort to reassign such responsibility by the Nuclear Regulatory Commission would be both inappropriate and ill-advised. The authority to regulate an activity does not include the authority to alter existing law which is outside the purview of the regulatory agency; and efforts by the Nuclear Regulatory Commission to hold the licensee accountable for functions of government will only result in an increased level of confusion at public expense.

SECTION II

Comments in this section address specific initiating conditions and/or suggested responses which do not appear to be appropriate responsibilities of the licensee or which appear to be listed within the wrong class of emergency action level. Additionally, comments are included regarding some appropriate responses which are missing from suggested lists.

Under "Unusual Event", three (3) initiating conditions appear to be inappropriate. Those are:

10. Fire lasting more than 10 minutes
Nature and location of a fire are more significant than its duration. Fires which are not related to any safeguard feature, especially those which are under control, should not warrant initiation of any further action.

13. Natural phenomenon being experienced or projected beyond usual levels
 - a. Any earthquake
 - b. 50 year flood or low water, tsunami, hurricane surge, seiche
 - c. Any tornado near site
 - d. Any hurricane

These occurrences of themselves should not be considered as criteria for notification. A 50 year flood is only of significance if the facility is in a location where a flood of that magnitude poses some threat. Tornado sightings should be reported to appropriate authorities so that tornado warnings may be issued; but this would apply whether the tornado is near a plant site or in any other part of a state. The presence of a hurricane will already be known to state and local officials; reporting by the licensee would be redundant. Weather-related hazards are within the purview of disaster preparedness agencies and any requirement to predict or give warning of their occurrence on the part of the licensee would be the complete reverse of established procedure. Confirmation of weather-related occurrences should be no more a responsibility of the licensee than of any other individual or organization. What should be the licensee's responsibility would be to advise State and/or local government of the threat such occurrences pose to the facility and probable effects if damage occurs.

16. Transportation of contaminated injured individual from site to offsite hospital
This does not appear to be a reasonable "Unusual Event" condition since the incident which resulted in contamination

and injury would, itself, be an initiating condition for a more severe class of action. Furthermore, the simple fact of transportation to an offsite hospital in no way addresses the class description for an "Unusual Event" since it does not indicate a "potential degradation of the level of safety of the plant." It seems that what has happened in this case is that a symptom has been identified as an initiating condition while the cause of the symptom has been ignored.

Under "Alert", two (2) initiating conditions appear to be inappropriate. Those are:

17. Severe natural phenomena being experienced or projected
 - a. Earthquake greater than OBE levels
 - b. Flood, low water, tsunami, hurricane surge, seiche near design levels
 - c. Any tornado striking facility
 - d. Hurricane winds near design basis level

While it would seem appropriate for the licensee to advise State and/or local authorities when projected intensity of these phenomena nears or exceeds design basis levels, the actual prediction and warning of these phenomena is and should remain the responsibility of the National Weather Service and State and local government. The licensee should not be required to enter into the business of prediction and warning of natural disasters.

18. Other hazards being experienced or projected
 - a. Aircraft crash on facility
 - b. Missile impacts from whatever source on facilityAside from meteorites, which the licensee could not predict in any case, the fact that either type of event can be predicted probably means that the event is a security matter rather than an accidental hazard. As such, projected occurrences of these types merit more than "Alert" class actions both on site and by Federal, State and local officials. The NRC should be extremely careful in wording initiating conditions; especially when the differences between occurrence and projected occurrence places the two in entirely different categories.

Under "Site Emergency" two (2) initiating conditions appear to be improperly assessed. These are:

13. Imminent loss of physical control of the plant
and
17. Evacuation of control room and control of shutdown systems not established from local stations in 15 minutes
Each of these initiating conditions posit an open-ended situation with no reasonable expectation of the licensee

having control of subsequent events. Rather than being initiating conditions which signal the inception of a "Site Emergency" action level, these are symptoms of other events which indicate that the situation has already escalated beyond "Site Emergency" parameters.

Under "General Emergency" all initiating conditions appear to be appropriate, however the list consists entirely of events whose expected frequency of occurrence is so minute as to be virtually meaningless in terms of human civilizations; much less in terms of individual nuclear power plants. As noted in the preceding comments, there are other conditions which, if properly interpreted, should signal the existence of a "General Emergency" condition. Generically these should include any and all situations where the safety of persons who remain in or around the plant is beyond the control of the licensee and/or government officials.

As a final comment on the specifics of the various initiating conditions we note that there is not one instance under any of the "State and/or Local Offsite Authority Actions" where actual evacuation is even mentioned. The closest approach to such a response is a suggestion that local officials place emergency personnel needed for evacuation on standby status in event of a "Site Emergency" and continuously assess information with regard to changes to protective actions already initiated for public and mobilizing evacuation resources under a "General Emergency." This omission is in spite of and seems to be in direct conflict with other protective action guidance promulgated by the Nuclear Regulatory Commission and is most definitely contrary to NRC thinking as reflected in the requirements which have been placed on State and local government for preparation of evacuation plans.

SECTION III

As a general observation concerning the Nuclear Regulatory Commission's requirements for nuclear power plant licensing and operations, one cannot help but wish that the NRC would give more cognizance to the programs and responsibilities of other Federal, State and local agencies. Civil preparedness is an ongoing activity, firmly based in constitutional and statutory law. Levels of competence may vary from locality to locality, but the framework for response to disaster already exists in every state and every community; whether such disaster be an act of God or the result of an act of man makes no difference.

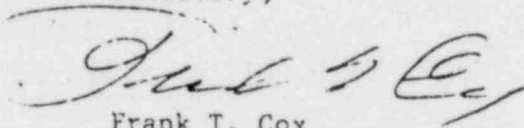
Rather than treating plant-related emergencies as a completely isolated category, the NRC would be better advised to confine itself to a consideration of what modifications "probably" power plant related incidents would require in Federal, State and local response plans, and to working through the Federal Emergency Management Agency as the designated Federal agency for insuring that states and local governments are provided such

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assistance as they may require in incorporating such modifications in their plans. Holding licensees responsible for seeing that State and local plans do or do not contain specific provisions; and subsequent insistence by the NRC that those provisions exist in such format as to be acceptable to the Commission have resulted in such chaos that what was initially an effort to ensure the safety of the population has degenerated into an effort to dot the i's and cross the t's.

As a final comment on just how badly perspective has been lost in this area, please consider the fact that a State or local government need only provide the basics of warning and shelter in event of a nuclear war, but it must meet NRC standards on seventy (70) critical items before a licensee can operate a nuclear power plant within the boundaries of that state; even though by its own data the NRC anticipates life-threatening conditions to exist within 10 miles of any plant only about once in 100,000 years.

Sincerely,



Frank T. Cox
Governor's Authorized Representative

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