



OFFICE OF THE
SECRETARY

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

RELEASED TO THE PDR

3/3/93

date

initials

February 16, 1993

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-92-417 - MEMORANDUM OF UNDERSTANDING
(MOU) BETWEEN THE FEDERAL EMERGENCY
MANAGEMENT AGENCY (FEMA) AND THE NUCLEAR
REGULATORY COMMISSION (NRC) REGARDING
EMERGENCY PLANNING AND PREPAREDNESS

The Commission (with all Commissioners agreeing) has approved the proposed MOU with FEMA with the changes indicated in the attachment and authorizes the Executive Director for Operations to sign the MOU for the Commission. The changes delete the requirement to obtain FEMA concurrence prior to NRC initiating its own review of offsite emergency preparedness and add a footnote for clarification.

Attachment:
As stated

cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
OGC
OIG
Office Directors, Regions, ACRS, ACNW (via E-Mail)
OP, SDBU/CR, ASLBP (via FAX)

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SECY NOTE: THIS SRM, SECY-92-417, AND THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 10 WORKING DAYS FROM THE DATE OF THIS SRM

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actions such as notices of violations, civil penalties, orders, or shutdown of operating reactors. This delineation of responsibilities avoids duplicative efforts by the NRC staff in offsite preparedness matters. However, if FEMA informs the NRC that an emergency, unforeseen contingency, or other reason would prevent FEMA from providing a requested finding in a reasonable time, then, with the ~~concurrence of FEMA,~~ the NRC might initiate its own review of offsite emergency preparedness, in consultation with FEMA, ~~FEMA.~~

A separate MOU dated October 22, 1980, deals with NRC/FEMA cooperation and responsibilities in response to an actual or potential radiological emergency. Operations Response Procedures have been developed that implement the provisions of the Incident Response MOU. These documents are intended to be consistent with the Federal Radiological Emergency Response Plan which describes the relationships, role, and responsibilities of Federal Agencies for responding to accidents involving peacetime ~~nuclear~~ nuclear emergencies. On December 1, 1991, the NRC and FEMA also concluded a separate MOU in support of Executive Order 12657 (FEMA Assistance in Emergency Preparedness Planning at Commercial Nuclear Power Plants).

~~report will be forwarded to the NRC Headquarters. Within 15 days of receipt of the FEMA report, NRC will notify FEMA in writing of action taken with the licensee relative to FEMA initiatives with State and local governments to correct deficiencies identified in the exercise.~~

- D. Withdrawal of Reasonable Assurance Finding. If FEMA determines under 44 CFR 350.13 of its regulations that offsite emergency plans or preparedness are not adequate to provide reasonable assurance that appropriate protective measures can be taken in the event of radiological emergency to protect the health and safety of the public, FEMA shall, as described in its rule, withdraw approval.

Upon receiving notification of such action from FEMA, the NRC will promptly review FEMA's findings and determinations and formally document the NRC's position. When, as described in 10 CFR 50.54(s)(2)(ii) and 50.54(s)(3) of its regulations, the NRC finds the state of emergency preparedness does not provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency, the NRC will notify the affected licensee accordingly and start the "120-day clock." ²

² Per 10 CFR 50.54 (s)(2)(ii), the Commission will determine whether the reactor shall be shut down or other appropriate enforcement actions if such conditions are not corrected within four months. The NRC is not limited by this provision of the rule, for as stated in 10 CFR 50.54 (s)(3): "Nothing in this paragraph shall be construed as limiting the authority of the Commission to take action under any other regulation or authority of the Commission or at any time other than that specified in this paragraph"