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January 4, 1982

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

DOCKET NUMBER
PROPOSED RULE PR-50 (3)
(46 FR 61132)

Attn: Docketing and Service Branch

Dear Secretary:

Subject: Proposed Rule Changes:
10 CFR Part 50
(1) Emergency Planning and Preparedness for Production and Utilization Facilities, 46 FEDERAL REGISTER 61132, 12/15/81;
(2) Emergency Planning and Preparedness: Exercises, 46 FEDERAL REGISTER 61134, 12/15/81

DOCKET NUMBER
PROPOSED RULE PR-50 (2)
(46 FR 61134)

As an Intervenor in all Dallas Power & Light rate hearings since 1974 and currently as an Intervenor in the Comanche Peak nuclear plant operating license hearings, CASE has always worked within the established system to try to bring out the truth. In the past, we have always held the belief that the system can work, if groups such as CASE persevere.

Over time, and especially since we became involved with our intervention in the Comanche Peak operating license hearings, that belief has been eroding. This latest proposed rule change has added considerably to that erosion, to the point where we now wonder if the truth is even to be had in NRC hearings.

When we obtained and reviewed the emergency preparedness requirements which resulted from the Three Mile Island accident, especially NUREG-0654, Rev. 1, November 1980, we were quite heartened because we considered them to be very much on target. The NRC appeared to be responding well to the lessons of Three Mile Island in regards to emergency planning. Further, the requirements specifically addressed many of the same concerns which we had set forth in our contention on emergency planning in the Comanche Peak operating license hearings.

However, recent events have convinced CASE that it is imperative that emergency planning contentions such as CASE's be addressed and resolved in the operating license proceedings, rather than only by the NRC Staff, before Applicants are granted permission to load fuel and go to low-power operation. One very striking example of the severely limited review the NRC Staff does is regarding financial qualifications of applicants for operating licenses. The transcript

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of the 12/2/81 operating license proceedings for the Comanche Peak plant offer eloquent proof of the fact that the NRC Staff does virtually no independent investigation or analysis of what the applicants provide and state regarding their financial qualifications, but rather accept what the utilities tell them. There is no reason to believe that the NRC Staff's review of emergency planning would be any better than that for financial qualifications. The statement in the proposed rule change that "The NRC review of the onsite plan will include an assessment of those offsite elements which are necessary to evaluate the applicant's response mechanism" is just so many words, without any significance and offering no hope of adequate emergency planning.

This latest of many recent assaults on NRC regulations and requirements is simply appalling. The idea that, for issuance of operating licenses authorizing "only" fuel loading and low power operation (up to 5% of rated power), no NRC or Federal Emergency Management Agency (FEMA) review, findings, and determinations concerning the state of or adequacy of offsite emergency preparedness is necessary, is totally unnecessary, without merit, and bordering on the ludicrous.

What is the reason, to begin with, for requiring low power operation before allowing full power operation? Is it not to be sure that the plant will operate properly and to get any bugs out and identify any problems before allowing full power operation? Is there any doubt that in the real world, absent a major accident or major defects being discovered during low power operation, full power operation will follow in a fairly short time frame -- with or without adequate emergency planning?

What possible reason is there to believe that, suddenly, magically, inadequate emergency planning at the time of low power operation will become adequate when the time comes for full power operation? Does any rational, reasoning person really question whether or not a nuclear plant, following seemingly successful low power operation, would be allowed to go on to full power operation -- with or without adequate emergency planning?

Recently NRC Chairman Nunzio Palladino has been quoted as noting "a surprising lack of professionalism in the construction and preparation for operation of nuclear facilities. Quality cannot be inspected into a plant. It must be built into the plant." The NRC's credibility with the public has been badly damaged by the recent Diablo Canyon fiasco, which bear out Mr. Palladino's concerns. Yet the Diablo Canyon plant might well have been allowed to go to full power operation without having adequate emergency plans in place, had its problems not become known when they did, possibly with disasterous consequences.

Another recent event has further eroded the public's confidence in the NRC's ability to protect the public health and safety. The recent extension of deadlines for accident warning systems, necessitated by the fact that the vast majority of affected nuclear plants had not

complied with requirements, offers no reassurance or support for the notion that it is somehow all right to allow (or, by the removal of present regulations, as presently proposed, even to encourage) utilities not to develop adequate emergency plans prior to fuel loading and low power operation. (Incidentally, CASE started to send in comments on the extensions of deadlines for accident warning systems, but the NRC offered no alternative in its proposal. Realistically, if extensions weren't granted, was the NRC going to spank the utilities' hands, fine them, or not grant their licenses because accident warning systems weren't in place?)

Does the NRC have any supporting documentation that presently operating nuclear plants have complied with the present NRC regulations and requirements regarding emergency planning, that the operators of such plants have clear, easy-to-follow instructions to follow in case of an accident or emergency situation, that drills and exercises have been conducted at such plants which show that emergency planning is adequate and capable of protecting the public health and safety in the event of an accident? Is there any reason to believe that the planning is adequate for soon-to-come-on-line nuclear plants? Does the NRC operate simply on gut feelings these days, rather than on facts and documentation? Or has the NRC always operated that way?

Who suggested this latest proposed rule change? Was it the nuclear industry, the administration in Washington, the NRC Staff? What was the reason for this latest proposal to gut the NRC regulations? What reasons, with supporting documentation, have been presented by the utilities for not complying with present NRC regulations? Surely they have known, at least since Three Mile Island, that more stringent regulations were in the works. What efforts have they made to comply with these regulations? CASE has not looked at all emergency plans of all utilities building nuclear plants; we can only go by what we are most familiar with -- the emergency planning for the Comanche Peak plant. By no stretch of the imagination can it be considered adequate, and if the presently proposed rule changes are adopted, we have no reason to believe that the emergency plans will be in place and operable by the time it is ready to go to full power operation or that the NRC Staff will accurately evaluate its adequacy prior to allowing full power operation.

There has been much done recently to expedite the licensing process. CASE submits that the best and simplest way to expedite licensing proceedings would be to let the utilities know, unequivocally, that there are certain regulations with which they must comply or they will not be granted their licenses. As it is, why should the utilities break their necks to comply with NRC regulations which they know are not going to be enforced? What reason is there for them to believe that they will ever be required to comply with such regulations? Why should they, when they know they can get away with not complying?

If the NRC is going to continue this chipping away at its own regulations, why not be up front about it and just tell the utilities to go ahead and set up emergency plans if they want to -- but that the NRC will grant them full power operating licenses no matter whether

they have any emergency plans or not? The signals from the NRC are saying just that to the utilities and encouraging them to drag their feet in complying with regulations which are constantly under attack not only by the utilities and Congress but by the NRC itself.

Groups such as CASE realize many of the problems the NRC faces, such as inadequate staffing, difficulty in obtai ng and keeping qualified personnel, and the impossibility of catching every problem at the nuclear plants regulated. However, these problem areas make it even more imperative that the NRC not abandon its regulatory responsibilities in the area of emergency planning. Present requirements need to be stringently applied and strengthened, not weakened.

We realize that the NRC cannot possibly catch each and every problem at nuclear plants. But for goodness' sake, at least give the public the small comfort of knowing that you have stringently enforced the regulations of emergency planning designed to protect the public health and safety in the event an accident does occur.

The credibility of the nuclear industry and the Nuclear Regulatory Commission is decreasing more and more as public attention is focused on problems such as those at the South Texas Project and Diablo Canyon. Even now, Houston Lighting and Power, and the cities of Austin, San Antonio, and Corpus Christi are suing Brown and Root because of problems at the South Texas Project. The NRC, ironically, is being sued by GPU for not regulating them enough at Three Mile Island. After eight years, the confidence of CASE and similar Intervenor groups has been badly shaken. Once the NRC's credibility is destroyed with groups such as CASE, you will have no credibility left. What happens once you have, by your own actions, accomplished this and you have no intervenors left to add credibility to your already often-farcial proceedings?

We urge that you reconsider adoption of these latest proposed rule changes and that you stop this insidious process of gutting your own regulations.

Respectfully submitted,

CASE (CITIZENS ASSOCIATION FOR SOUND ENERGY)

Juanita Ellis

(Mrs.) Juanita Ellis
President

cc: Service List in Docket 50-445 and 50-446