

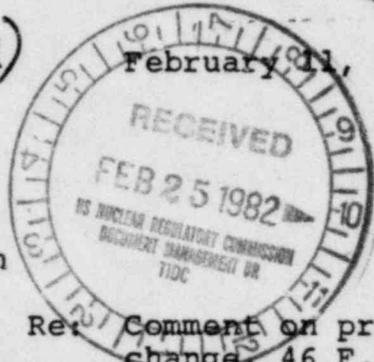
DOCKETED
USNRC

(61)

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

'82 FEB 17 P1:53

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February 11, 1982

Secretary of the Commission
Docketing & Service Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Comment on proposed rule
change, 46 F.R. 61132

Dear Sirs:

The proposed rule change, amendment to 10 C.F.R. Part 10, cited at 46 F.R. 61132, would largely withdraw scrutiny of offsite emergency planning from licensing hearings and limit such scrutiny to actions taken by the NRC Staff, Office of Inspection and Enforcement, upon the advice of the Federal Emergency Management Agency (FEMA). Unless the Commissioners are simply unaware of the Staff's recent performance in this area, they must know that this would greatly downgrade emergency planning as an NRC priority. Without the additional impetus of public hearings on offsite emergency planning, progress predictably would be minimal due to the Staff's lack of enthusiasm, and the Commission's apparent acquiescence in this attitude.

Events of the last year pertaining to the four operating New York reactors furnish an illustrative example of the Staff's declining interest. During March-April, 1981 FEMA's Regional Advisory Committee identified numerous major deficiencies in the offsite plans for the four reactors. On April 24 the NRC Staff, by letters of Boyce Grier, issued each of the licensees a 120-day order pursuant to 10 C.F.R. § 50.54(s). Licensees were given four months to correct the deficiencies, at which time the Staff would then determine whether further enforcement action was necessary. The April 24 letters appended a lengthy list of deficiencies to be corrected. At the end of 120 days the deficiencies at all four plants remained largely uncorrected. FEMA was in the process of reviewing the revised plans, but had not yet submitted any estimate of them. The Staff solicited a memorandum from Robert Jaske, FEMA's Acting Regional Director, which spoke in general terms of the planning process as "generally adequate." Read in context, however, the phrase clearly did not refer to the specific deficiencies identified in April. Jaske admitted in the memorandum that review of the revised plans at Indian Point had not even begun.

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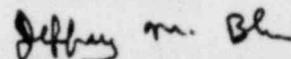
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Nevertheless, the NRC Staff chose to pretend that Jaske's memorandum addressed the specific deficiencies, and on this basis Boyce Grier sent letters to the licensees on August 24 declaring with regard to the April 24 120-day orders, that "this issue has been resolved satisfactorily. In reality the revised plans had not yet been reviewed by FEMA. In subsequent months FEMA issued a review of the revised plans for Nine Mile Point, finding them still very deficient, and on December 31, 1981 issued a review of the revised Indian Point offsite plans, those also still very deficient. Most of the key deficiencies that meant that the public was not adequately protected in April were still present in December. How could the matter have been "resolved satisfactorily" in August?

Some hint has been provided by documents compiled as part of the record for a lawsuit. Grier's August 24 "resolved satisfactorily" letters were apparently sent under protest. Four days earlier Brian Grimes, the Director of the NRC Staff's Division of Emergency Preparedness, had requested that Grier use the Jaske memorandum to send out letters saying that the April 24 120-day orders were resolved. The following day Grier protested to Grimes that the Jaske memorandum was "far from resolving the concerns in our April 24 letter and the attachments thereto." Grier proposed a draft letter with very different language, but inexplicably the final August 24 letters included language originally proposed by Grimes. (All relevant letters are appended for the Commission's examination.)

If this is how the highest ranking NRC Staff members of the "Division of Emergency Preparedness" feel major deficiencies in offsite emergency plans should be handled, one can readily see why the Commission would want to withdraw public scrutiny of the issue. Enactment of the proposed rule change would indicate to the public that the Commission has changed its mind about the viability and desirability of offsite emergency planning. It would also indicate to the Staff that the Commission condones (and perhaps even encourages) regulatory behavior like that described above. If these are not messages which the Commission wishes to send, it should definitely not adopt the proposed rule change at this time.

Sincerely,



Jeffrey M. Blum
UCS Special Counsel for
Indian Point Hearings

New York University School of Law
40 Washington Square South
Room 423
New York, New York 10011



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
631 PARK AVENUE
KING OF PRUSSIA, PENNSYLVANIA 19406

Docket No. 50-247

24 APR 1981 .

Consolidated Edison Company of
New York, Inc.
ATTN: Mr. John D. O'Toole
Vice President - Nuclear Engineering
and Quality Assurance
4 Irving Place
New York, New York 10003

Dear Mr. O'Toole:

We have received the attached Federal Emergency Management Agency (FEMA) letter dated April 23, 1981, and the attached letter from FEMA to the New York State Disaster Preparedness Commission dated April 6, 1981, which lists numerous deficiencies in the New York State and local emergency response plans for the area around your reactor site. Although we have not completed our review and assessment of the overall state of emergency preparedness we are of the view that many of these deficiencies identified by FEMA must be removed in order for us to conclude that appropriate protective measures can and will be taken in the event of a radiological emergency at your facility. We have concluded that assurance of both onsite and offsite preparedness is needed to protect the health and safety of the public. This is to notify you that should the deficiencies not be corrected within 120 days of the date of this letter, the Nuclear Regulatory Commission will determine whether your reactor shall be shut down until such deficiencies are remedied or whether other enforcement action is appropriate.

We are concerned that the availability and allocation of resources necessary to address the FEMA deficiencies are not clearly defined. We also fully recognize that the deficiencies to be corrected may involve actions by other parties and political institutions which are not under your direct control. Nonetheless, we would expect this subject to be addressed by you as well as others.

We understand that New York State believes that State legislation is required to fully resolve the offsite planning problems and that resolution of the legislative issues involved can be achieved within the period allowed for correcting the deficiencies.

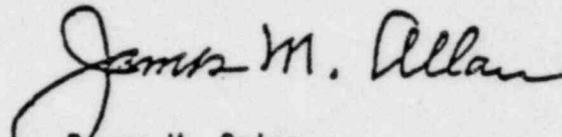
You are requested to submit a written statement to this office within 30 days of the date of this letter, describing plans for correcting each of the deficiencies identified in the April 6, 1981 letter. This request affects

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fewer than ten (10) licensees and therefore, is not subject to the Paperwork Reduction Act of 1980 (PL 96-511). If any unusual problems develop we are available to work with you and the State and local authorities along with FEMA to resolve the problem. Additional notifications of this type may be issued as our emergency preparedness review continues through observations of the annual joint exercise, and onsite inspections of your emergency preparedness.

Sincerely,


Boyce H. Grier
Director

Enclosures: As Stated

cc w/encls:

C. W. Jackson, Vice President, Nuclear Power
K. Burke, Director, Regulatory Affairs
W. D. Hamlin, Assistant to Resident Manager (PASNY)
F. Matra, Resident Construction Manager, Indian Point
R. P. Remshaw, Nuclear Licensing Engineer
Joyce P. Davis, Esquire
Brent L. Brandenburg, Assistant General Counsel
Honorable Hugh L. Carey, Governor of New York
State of New York, Department of Health
V. Forde, Acting Regional Director, FEMA
D. D. Bruen, Chief Executive, Putnam County
L. Heimbach, Chief Executive, Orange County
J. T. Grant, Chief, Executive, Rockland County
A. B. DelBello, Chief Executive, West Chester County
J. Dunkelberger, New York State Energy Office
W. C. Hennessy, Chairman, Disaster Preparedness Commission
J. Dickey, Director, REP Division, FEMA

bcc w/encls:

IE Mail & Files (For Appropriate Distribution)
Central Files
Public Document Room (PDR)
Local Public Document Room (LPDR)
Nuclear Safety Information Center (NSIC)
Technical Information Center (TIC)
REG:I Reading Room
State of New York
NRC Resident Inspector
Joan Holt, NY PIRG



Federal Emergency Management Agency

Washington, D.C. 20472

August 19, 1981

MEMORANDUM FOR: Director
Division of Emergency Preparedness
Office of Inspection and Enforcement
U. S. Nuclear Regulatory Commission

FROM: Acting Director for *[Signature]*
Radiological Emergency Preparedness Division

SUBJECT: Status of Off-Site Planning in New York State

In previous correspondence you requested that this office furnish a statement on the status of planning in New York State involving the Nine Mile Point, Fitzpatrick, Ginna and Indian Point sites which were subject to NRC enforcement actions. I am pleased to report on these facilities as follows.

Our letter of April 6, 1981, which listed deficiencies in the relationship between the State of New York and the site specific counties, has been partially answered by the enactment of new legislation by the State of New York. Chapter 708 of the New York Code now eliminates the inconsistencies in direction and control. New York has incorporated the provisions of Chapter 708 into the plans and will ensure that any remaining inconsistencies are corrected. These provisions will be reflected in the site specific plans for the sites listed above.

FEMA Region II is working with the State on the resolution of the health physics items and we have assurance that these deficiencies will be addressed by the time exercises for these sites are completed. Fitzpatrick will exercise September 15, 1981, Ginna November 5, 1981, and Indian Point March 3, 1982.

Formal plans reviews by the Regional Assistance Committees are now underway with Fitzpatrick/Nine Mile Point as the first priority. FEMA Region II has now received the plans for Ginna and Indian Point.

Based on this information, and our general knowledge of the State of planning for the four sites, FEMA believes that the present state of planning is generally adequate to carry out the responsibilities of the State and local government in the case of an accident at these sites. A judgement of the overall adequacy of preparedness cannot be provided until the results of the exercises are evaluated.

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