NRC REF 50 (55 FR 41095)

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November 19, 1990

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

Attn: Docketing and Service Branch

Subj: 10CFR? Proposed Rule: Emergency Response Data System, Federal Register, October 9, 1990, pp 41095-41098.

Ref: (1) Regulatory Analysis of the Proposed Rule Concerning the Emergency Response Data System

(2) "Criteria for Prepatation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," NUREG-0654 Rev. 1, November 1980

I have read the proposed rule and do not agree that adoption of the rule would result in an unquantifiable but significant increase in the level of protection provided to the health and safety of the public as stated in reference 1. As a previously licensed Senior Reactor Operator and qualified Emergency Director at a utility, the proposed rule does nothing to change or improve current procedures, practices, or methods. As a result, the proposed change should be considered as a costly alternative for both the NRC and the utility industry. The proposed rule should remain a voluntary program under Generic Letter 89-15.

The proposed rule does not meet the requirements of 10CFR50.109, "Backfitting" section a.4.ii which states in part, "That regulatory action is necessary to ensure that the facility provides adequate protection to the health and safety of the public..." The arguments in the backfit analysis used to support the proposed rule are weak and do not provide a significant increase in the level of protection for the health and safety of the public. This letter will specifically address each objective of the proposed rule identified in the Backfit Analysis and provide an explanation on how the proposed rule will not significantly increase the level of protection provided nor improve the NRC's ability to perform its role.

Backfit Analysis Item (1)-"Monitoring the licensee to ensure that appropriate recommendations are being made with respect to offsite protective actions.

The NRC's role in a declared emergency at a utility is to monitor the licensee to ensure that appropriate recommendations are made with respect to offsite protective actions. This role is currently being performed by the NRC's resident inspectors. The resident inspector at the site will be notified if an emergency condition exists at the site and will monitor the utility appropriately. The data required by the proposed rule is not all-inclusive of the plant parameters required to make decisions regarding

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offsite protective actions. In the event of an emergency, the utility responds with a number of emergency personnel who all well trained in their emergency positions. If instruments are out of service, backup data will be used that may not necessarily be available to the computer. Often dose assessments are performed based on surveys performed by Technicians and this data would also not be available via a data link to the NRC.

In the event of a declared emergency, current procedures dictate that the NRC in Bethesda is notified of the event and a dedicated individual is assigned by the utility to keep open phone communication via the Emergency Notification Network(ENN). There is nothing in the proposed rule which suggests that this requirement be removed. Even if this requirement is removed, implementing the proposed rule would be far more costly than maintaining a dedicated individual in open communication with the NRC in Bethesda.

Finally, the proposed rule does not relieve the utility's Emergency Director of the assigned responsibilities during an emergency. I do not believe that it should. The utility is solely responsible for protection of the public health and safety and this responsibility is delegated to a well trained Emergency Director. The Emergency Director is not allowed to delegate his responsibilities, not to the NRC nor anyone at the facility. The NRC's role is to monitor and therefore, statements like unquantifiable but significant increase in level of protection to the health and safety of the public are invalid because there has been no improvement in the manner in which the Emergency Director makes decisions in an emergency.

Backfit Analysis Item (ii)-"Providing the licensee with technical analysis and logistic support."

There have been 66 declared alert emergencies and 1 declared site area emergency from 1984 through October 26, 1990. Between 1987 and 1989, none of the declared emergencies required activation of the NRC's Incident Response facility. The time required for the NRC to activate the facility, locate information specific to the plant involved, interpret data and provide useful feedback to the utility would not occur in a timely manner during an actual emergency. Any calculations (logistics) would occur too late in the early critical stages of an emergency. The Staff has also not considered what it would take to hire and maintain a staff of personnel that would have the expertise on a particular plant to make valid recommendations and serve a support function, a cost item not included in the cost estimate of reference 1.

Backfit Analysis Item (iii)-"Supporting Offsite authorities."

Under a Memorandum of Understanding with state and local governments, the NRC would be required to make the information obtained through ERDS available. State and local governments typically do not have the expertise available to interpret the data. Moreover, providing this information would be an additional cost to the NRC not considered in the cost analysis in reference 1.

Additionally, reference 2 outlines the responsibilities of organizations in the event of an emergency. Each utility has made separate, individual agreements with their state and local governments. The NRCs role is to monitor, and could not provide useful support to offsite authorities without rewriting the emergency procedures at each facility to include a support function by the NRC staff. This represents additional costs to the industry as well as the NRC which is not considered in the cost analysis contained in reference 1.

Backfit Analysis Item (iv)-Keeping other Federal Agencies and entities informed of the status of the incident."

Backfit Analysis Item (v)-"Keeping the media informed of the NRC's knowledge of the status of the incident."

These items are grouped together because the same issues apply. This statement in and of itself does not meet the intent or the requirements of 10CFR50.109, "Backfitting." This objective is the responsibility of the NRC and is not governed by 10CFR50.109. It should be noted that utilities typically set up a public information office for dealing with the media in the event of an emergency. Utilities should not have to bear the cost burden in part or in whole of a NRC responsibility or commitment.

In general, the above analysis shows that the proposed rule does not meet the requirements of 10CFR50.109. The cost estimate to a utility stated in the proposed rule of approximately $153,000 per unit is significantly underestimated. There is sufficient evidence which suggests that the estimated costs to the NRC staff of $4.3 million is also well below what actual implementation costs would be.

In addition to the backfit rule analysis, there are some general items for the staff to consider before implementing this rule. The NRC has previously approved Emergency response procedures at utilities. Yearly exercises are required which involve state and local governments. It must be assumed that these procedures will be followed and executed in a timely manner to protect the health and safety of the public. One could get the impression that the NRC does not trust the utilities nor its own ability to respond in the event of an emergency under the current practices with the implementation of the rule.

The mechanisms by which radiological information is obtained in an emergency is not always dictated by plant instruments. Often, health physics either takes back up samples or verifies current readings. Offsite dose calculations take considerable time to perform. Therefore, readings transmitted through ERDS may not always be accurate to the point where decisions regarding offsite evacuation can be made and justified.

The NRC's role as repeatedly mentioned is to monitor the licensee in the event of an emergency. Typically, utilities have plant computers which record on digital tape the plant conditions and actions taken. The digital tape combined with the Resident Inspector provide sufficient monitoring capability for the NRC to perform its function.

In summary, this letter shows how the proposed rule on Emergency Response Data System does nothing to increase the level of protection provided to the health and safety of the public. The proposed rule does not meet the minimum requirements of 10CFR50.109. It would be an expensive waste of government and utility funds; the costs of which would ultimately be passed onto citizens unnecessarily both in utility rates and in taxes.

If you have any questions regarding this letter, please contact me at 407-747-8365.

Sincerely,

R. H. Landon, Jr.