

U.S. NRC

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OFFICE OF SECRETARY
DOCKETING AND SERVICE
BRANCH

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555
Attn: Docketing and Service Branch

Dear Sir:

The purpose of this letter is to provide comments on NRC's proposed rule change to 10 CFR Part 50 (RIN 3150-AD32) regarding the Emergency Response Data System published in 55FR41095 dated October 9, 1990. To summarize my comments to follow, NRC has failed to show a safety benefit that offsets the cost of implementing this rule and therefore the rule should not be implemented.

10 CFR 50.109 requires a backfit analysis to be performed for NRC mandated modifications unless the modification is necessary to either bring the facility into conformance with existing requirements, protect the health and safety of the public, or the regulatory action involves defining or redefining what is adequate for public health and safety. Since the exceptions provided under 10 CFR 50.109 paragraphs (a)(4) and (a)(5) have not been invoked, a backfit analysis is required.

As stated in 10 CFR 50.109 paragraph (a)(3):

"...the Commission shall require the backfitting of a facility only when it determines, . . . that there is a substantial increase in the overall protection of the public health and safety or the common defense and security to be derived from the backfit and that the direct and indirect costs of implementation for that facility are justified in view of this increased protection."
(emphasis added)

The NRC contends that by implementation of an Emergency Response Data System (ERDS), designed under NRC contract, which all utilities will be required to pay for and install, there will be a substantial increase in the overall protection of public health and safety. This is based on the fact that the ERDS will represent a data link between each utilities nuclear unit and the NRC's headquarters in Bethesda, Maryland. The ERDS will transmit a select group of plant parameters (e.g. primary pressure, steam generator level, etc.), which will allow NRC headquarters to monitor an emergency and perform its role in an emergency.

My primary contention is that NRC has failed to show, using factual and objective evidence, how implementation of the ERDS will result in a substantial increase in overall protection of the public health and safety. In the NRC's own analysis, 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." (emphasis added). If the impact is substantial, it should be quantifiable!

In the NRC's "Regulatory Analysis of the Proposed Rule Concerning the Emergency Response Data System", the staff states:

"The principal benefit that will accrue from the proposed rule is the increased assurance that the NRC will have the means for timely acquisition, review, and evaluation of critical parameters at any operating reactor in distress. This, in turn, would improve the NRC's understanding of an event and allow it to more effectively perform its role, including monitoring the licensee to ensure that appropriate recommendations are made for offsite protective actions, supporting the licensee with technical analysis and logistic support, supporting offsite authorities, keeping other Federal agencies and entities informed of the status of the event, and keeping the media informed of NRC's knowledge of the status of the event."

Let us examine the meaning of this statement. By the NRC better understanding an event, they will be better able to monitor the licensee and ensure that appropriate actions are made for offsite protective actions. Because of the restricted group of parameters available to NRC using the ERDS, an accurate assessment of plant status could not be made. Use of voice or facsimile communications would still be required to provide comprehensive information on which to make such an assessment. Since these voice and facsimile communications would already be taking place, why can they not be used for this critical set of ERDS parameters? Updates using facsimile equipment could be made by an individual quite frequently, and thus an expense of \$150,000 per unit avoided. This media appears to avoid the potential inaccuracies of voice communication without the exorbitant expense of the ERDS data link.

NRC further claims that use of the ERDS would aid it in its role of providing technical and logistic support to affected licensees. Again, the limited group of ERDS parameters would be inadequate to provide NRC with a basis to make technical recommendations to licensees without being supplemented by voice or facsimile communications. In addition, since NRC maintains no personnel licensed on the various units, their capability to provide accurate operator support is limited. Finally, since NRC headquarters in Bethesda, Maryland is probably 75 miles from the nearest plant and 2000 miles from the farthest, their ability to provide logistical support is questionable.

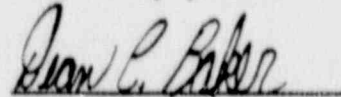
Lastly, NRC claims that the ERDS will aid it in keeping other federal agencies informed of the status of the event and will keep the media informed of NRC's knowledge of the status of the event. These claims have nothing to do with the public's health and safety, rather they are directly tied to the public's perception of the NRC. If the NRC appears ill informed, they will look foolish and the Congress will act

accordingly. It does not appear to me that it is the utilities job to make the NRC look good. Again, use of voice and facsimile communications is more than adequate to keep NRC adequately informed.

In summation, while NRC has provided a backfit evaluation that follows the form of 10 CFR 50.109, it lacks the substance required by the intent of the rule. Therefore, the staff should not implement the proposed rule change. If communications with NRC headquarters is truly a problem (and again, this has not been demonstrated with facts), many alternatives that are cheaper than \$150,000 must be available.

Should you have any questions, please do not hesitate to call me at (407) 622-8188.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Dean C. Baker", written over a horizontal line.

Dean Baker