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DOCKET NUMBER PR 50  
PROPOSED RULE  
(53 FR 16435)

# United States Senate

WASHINGTON, DC 20510  
June 22, 1988

1659  
COMMITTEES  
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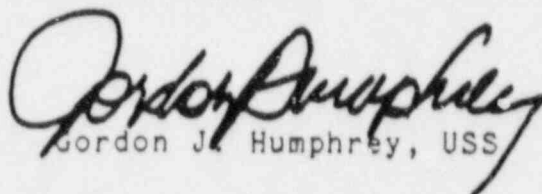
Mr. Samuel J. Chilk  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, Maryland 20852

Dear Mr. Chilk:

Enclosed please find my comments on the Nuclear Regulatory Commission's proposed rule to revise 10 CFR Part 50 in regard to "Emergency Planning and Preparedness Requirements for Nuclear Power Plant Fuel Loading and Initial Low-Power Operations." Please ensure that my views are considered in evaluating this proposed rule published in Federal Register May 9, 1988.

With warmest regards, I am

Sincerely yours,

  
Gordon J. Humphrey, USS

Enclosure

cc: Chairman Lando W. Zech, Jr.  
Commissioner Thomas Roberts  
Commissioner Kenneth Carr  
Commissioner Kenneth Rogers

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6/23..To OGC for Appropriate Action..Cpy to: RF, Docket, EDO...88-0575

STATEMENT OF SENATOR GORDON J. HUMPHREY  
ON THE NUCLEAR REGULATORY COMMISSION'S  
PROPOSED RULE ON EMERGENCY PLANNING REQUIREMENTS  
FOR INITIAL LOW-POWER OPERATION

I BELIEVE THE NUCLEAR REGULATORY COMMISSION'S (NRC) ATTEMPT TO CIRCUMVENT THE ADJUDICATORY PROCESS BY REVISING REQUIREMENTS FOR LOW-POWER OPERATION (PUBLISHED IN FEDERAL REGISTER MAY 9, 1988) IS UNNECESSARY AND ILL-ADVISED. AN IMPORTANT PART OF THE NRC'S STATUTORY MANDATE IS TO ASSURE PROTECTION OF PUBLIC HEALTH AND SAFETY. THIS PROPOSED RULE, WHICH WILL ERODE PUBLIC CONFIDENCE, IS INCONSISTENT WITH THE NRC'S MISSION. IT SHOULD BE REJECTED.

THE PROPOSED RULE ELIMINATES THE REQUIREMENT THAT APPLICANTS ESTABLISH "MEANS TO PROVIDE EARLY NOTIFICATION AND CLEAR INSTRUCTION TO THE POPULACE WITHIN THE PLUME EXPOSURE PATHWAY EMERGENCY PLANNING ZONE" PRIOR TO ISSUANCE OF A LOW-POWER OPERATING LICENSE.

THE COMMISSION STATES THAT THE RULE CHANGE HAS BEEN PROPOSED BASED ON CONSIDERATION OF THIS ISSUE IN REGARD TO THE LICENSING OF THE SEABROOK NUCLEAR POWER PLANT IN NEW HAMPSHIRE. IN FACT, THIS SAME ISSUE IS BEFORE THE COMMISSION IN THE CONTEXT OF THE SEABROOK ADJUDICATION. I FIND IT IRONIC THAT THE COMMISSION VIEWS THIS AS A "GENERIC SAFETY QUESTION" WHEN THE ISSUE AND THE RULE CHANGE ARE BEING RAISED BASED ONLY ON DIFFICULTIES AT THE SEABROOK PLANT. FURTHER, ACCORDING TO THE NRC, "THIS WAS THE FIRST TIME THAT CONTESTED ISSUES REGARDING COMPLIANCE" WITH THE OFF-SITE EMERGENCY PLANNING ELEMENTS REQUIRED FOR LOW POWER OPERATION HAD COME BEFORE THE COMMISSION SINCE THE FINAL RULE WAS PROMULGATED IN 1982. THIS APPEARS TO BE AN ATTEMPT TO CLEAR A SPECIFIC HURDLE IN THE SEABROOK LICENSING PROCEEDINGS BY CHANGING GENERIC REGULATIONS. I OBJECT ACROSS THE BOARD TO RELAXATION OF EXISTING EMERGENCY PLANNING AND PREPAREDNESS REQUIREMENTS FOR THE SEABROOK PLANT.

ALTHOUGH THE COMMISSION, IN PROPOSING THE RULE, STATES, "IT HAS BEEN DIFFICULT ON AT LEAST INITIAL CONSIDERATION FOR THE COMMISSION TO DISCOVER A BASIS FOR REQUIRING A REVIEW BEFORE LOWER POWER OPERATION OF PROMPT (WITHIN MINUTES) NOTIFICATION OF THE PUBLIC...", ONE NEED LOOK NO FURTHER THAN THE COMMISSION'S "EMERGENCY PLANNING AND PREPAREDNESS" FINAL

RULE PUBLISHED ON JULY 13, 1982. IN 1982, THE COMMISSION CONCLUDED THAT IT WAS NECESSARY TO REVIEW SEVERAL OFFSITE EMERGENCY PLANNING ELEMENTS, INCLUDING PROMPT NOTIFICATION OF THE PUBLIC, BEFORE ISSUANCE OF AN OPERATING LICENSE FOR LOW POWER TESTING. THE COMMISSION'S RATIONALE IN 1982 WAS THAT:

KNOWING THAT THE ABOVE [OFFSITE] ELEMENTS OF THE APPLICANTS EMERGENCY PLAN HAVE BEEN REVIEWED BY NRC SHOULD ASSURE THE PUBLIC THAT, FOR LOW-POWER TESTING AND FUEL LOADING, ADEQUATE PROTECTIVE MEASURES COULD AND WOULD BE TAKEN IN THE EVENT OF AN ACCIDENT.

THIS STATEMENT WAS IN RESPONSE TO CONCERN THAT "THE PUBLIC KNOWLEDGE THAT NO OFFSITE PROTECTION EXISTS COULD CAUSE CHAOS IN THE EVENT OF AN INCIDENT DURING FUEL LOADING OR LOW POWER TESTING." I BELIEVE THAT THIS CONCERN IS AS VALID IN 1988 AS IT WAS IN 1982.

THE COMMISSION IS WELL AWARE OF MY VIEW THAT IT DOES NOT MAKE SENSE TO GRANT A LOW-POWER OPERATING LICENSE UNTIL THOSE ISSUES IMPEDING FULL-POWER OPERATION ARE RESOLVED. THUS, I OPPOSE STRONGLY THE COMMISSION'S PROPOSAL TO ELIMINATE THOSE OFF-SITE REQUIREMENTS CURRENTLY NECESSARY FOR LOW-POWER OPERATION UNDER THE COMMISSION'S RULES. REGARDLESS OF THE REASONS FOR AN APPLICANTS' FAILURE TO MEET CERTAIN EMERGENCY PLANNING STANDARDS, THE PUBLIC IN THE AREA SURROUNDING SEABROOK DESERVES THE KNOWLEDGE THAT STANDARDS ARE NOT BEING LOWERED SIMPLY BECAUSE THEY ARE DIFFICULT TO MEET. RATHER, THE COMMISSION SHOULD SEEK TO ASSURE THE PUBLIC THAT EXTRAORDINARY MEASURES WILL BE TAKEN WHEN DIFFICULTIES ARISE.

I URGE THE COMMISSION NOT TO ISSUE A FINAL RULE ELIMINATING THE PROMPT NOTIFICATION REQUIREMENT FOR LOW-POWER OPERATION. I BELIEVE THAT THE PUBLIC AROUND SEABROOK, THE ONLY NUCLEAR PLANT LIKELY TO BE AFFECTED BY SUCH A RULE CHANGE, DESERVES NO LESS THAN THE PUBLIC IN THE AREAS SURROUNDING OUR NATION'S OTHER NUCLEAR POWER PLANTS. THAT IS: FULL COMPLIANCE WITH EXISTING SAFETY REQUIREMENTS.

PUBLIC CONFIDENCE IS AN IMPORTANT COMPONENT IN EMERGENCY PLANNING AND PREPAREDNESS. I BELIEVE THAT IN PROMULGATING THIS RULE IN REGARD TO LOW POWER OPERATION, THE NRC WILL DIMINISH PUBLIC CONFIDENCE IN THE EMERGENCY PLANNING PROCESS.