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PROPOSED RULE
(53 FR 16435)

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

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The Honorable Edward J. Markey
United States House of Representatives
Washington, D. C. 20515

SERVED MAY 25 1988

Dear Congressman Markey:

I am responding to your letter dated May 3, 1988, concerning a proposed change to the Commission's emergency planning rules with respect to requirements for fuel loading and initial low power operations. On May 4, 1988, the Commission forwarded to the Federal Register the proposed rule change that is the subject of your letter.

The Commission's attention was recently focused on questions concerning interpretation of the current low power license regulations as a result of petitions for review of an Atomic Safety and Licensing Appeal Board decision in the Seabrook proceeding. After reviewing the current rule in relation to that proceeding, the Commission determined that modifications to the rule might be appropriate. The emergency planning regulations currently in force provide that before fuel loading and low power (up to 5% of rated power) operation, there must be a finding on the licensee's plans and state of preparedness for dealing with accidents that could affect persons on site. The current rule also states that no finding regarding the planning or preparedness of off-site agencies for dealing with accidents that could affect persons off site is required at this stage. The Commission is not proposing to change these aspects of the current rules.

However, the Commission's practice under the current rule, as set forth in the Statement of Considerations accompanying that rule, has been to consider, as part of the review of licensees' plans, certain off-site elements of those plans. On reconsideration of those elements, it appeared to the Commission that certain aspects of them seemed to be unnecessary for low power operation in view of the low degree of risk posed to persons off site by fuel loading and low power operation. Accordingly, the Commission is considering a proposed rule, which has been published for public comment, that would differentiate between those aspects of off-site elements that would provide meaningful protection at low power and those aspects that would not be required in the interest of public safety at such restricted power levels.

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Although the Commission believes the original June 8, 1988 date for close of the comment period should have been fully adequate for responses to such a discrete issue, we have agreed to a 15 day extension of the comment period. The comments received by the Commission on the proposed change will be read, studied, and evaluated. The Commission will then determine whether to amend the current rule and, if so, whether to adopt the rule as proposed or as modified in light of public comment. It should be noted that no change in the panoply of emergency planning protections that the Commission requires for full power licensing is contemplated or would be effected by adoption of the proposed rule.

Finally, because your letter was received after we decided to forward the proposed rule to the Federal Register, I am directing the Office of the Secretary to include your letter for consideration along with the responses to the Commission's request for comment as well as to serve it on the parties to the Seabrook proceeding.

Sincerely,

Lando W. Zech Jr.
Lando W. Zech, Jr.