
Task V.E: Legislative Needs (Rev. 1)

The objective of this task was to evaluate legislative needs evidenced by and from TMI.

ITEM V.E.1: STUDY THE NEED FOR TMI-RELATED LEGISLATION

DESCRIPTION

This NUREG-0660,¹ Rev. 1 item called for the Commission to study the need for legislation with respect to the following:

(1)	Clarification of NRC authority to issue a license amendment prior to a hearing when necessary to ensure the health and safety of the public;
(2)	Determination of whether NRC should seek an amendment to the Sunshine Act to reduce the Act's requirements for Commission meetings during an emergency;
(3)	Determination of NRC's current legal authority to take over and conduct cleanup actions at a nuclear facility and with respect to the Federal Government's (a) liability for damages occurring during a cleanup conducted by NRC, and (b) entitlement to reimbursement for cleanup costs;
(4)	The continuing desirability of the Price-Anderson Act in two areas: (a) extraordinary nuclear occurrence, and (b) limitation of liability;
(5)	Desirability of creating a new category of license to be issued in place of an operating license for a facility during an extended recovery period following a major accident;
(6)	The need for new or modified NRC authority to address the establishment of a chartered national operating company or consortium.

¹ NUREG-0660, "NRC Action Plan Developed as a Result of the TMI-2 Accident," U.S. Nuclear Regulatory Commission, May 1980, (Rev. 1) August 1980

This item was originally identified as Item 7 in Chapter V but was made Item V.E.1 in Rev. 1 to NUREG-0660.² The following is a discussion of NRC actions on the six subtasks of this item:

(1)	Section 12 of Public Law 97-415 ³ was amended in 1983 and clarified Commission authority under Section 189a of the Atomic Energy Act of 1954. This amendment, commonly referred to as the "Sholly Amendment," clarified NRC authority to issue a license amendment prior to a hearing when necessary to ensure the health and safety of the public. Thus, this subtask was resolved.
(2)	The NRC Reorganization Plan No. 1 of 1980 ⁴ directed the Chairman to act for the Commission in emergencies. This legislation nullified the need for any amendment to the Sunshine Act which originally required Commission meetings during emergencies. Thus, this subtask was resolved.
(3)	In November 1980, NRC issued NUREG-0689 ⁵ which addressed NRC's legal authority over cleanup activities. After receiving this document, the Commission has not sought any legislation to augment or clarify its authority. Thus, this subtask has been resolved.
(4)	The Congress is expected to pass, in the next legislative session, a revision to the Price-Anderson Act which will alter the limitation on liability provisions. It is likely that the extraordinary nuclear occurrence (ENO) provisions will remain in slightly modified form. The Commission published a proposed amendment to 10 CFR 140 revising its criteria for an ENO in April of 1985. ⁶ A final rule is expected in 1987. This subtask will be resolved when a final rule is approved by the Commission.
(5)	Although it might be convenient to have a special category of license for a facility engaged in extended recovery operations, it has been the Commission's experience with the TMI-2 cleanup phase that NRC's authority to issue orders and license amendments provides adequate flexibility for conducting recovery operations within the framework of the preexisting facility license. Accordingly, the staff determined that there was no need to develop a new license category. Thus, this subtask has been resolved.
(6)	This subtask called for the formation of an industry- wide consortium to operate the nuclear plants of utilities that are unable to meet the increased regulatory demands resulting from the TMI-2 accident. The Commission has not sought legislation in this area. Thus, this subtask has been resolved.

This item is related to increasing knowledge, certainty, and understanding of safety issues in order to increase confidence in assessing levels of safety and is, therefore, considered a licensing issue.

² NUREG-0660, "NRC Action Plan Developed as a Result of the TMI-2 Accident," U.S. Nuclear Regulatory Commission, May 1980, (Rev. 1) August 1980.

³ Memorandum for A. Thadani from T. Speis, "Generic Safety Issue (GSI)-166, 'Adequacy of Fatigue Life of Metal Components,'" August 26, 1996. [9808210022]

⁴ Regulatory Guide 1.139, "Guidance for Residual Heat Removal," U.S. Nuclear Regulatory Commission, May 1978.

⁵ NUREG-0689, "Potential Impact of Licensee Default on Cleanup of TMI-2," U.S. Nuclear Regulatory Commission, November 1980.

⁶ *Federal Register* Notice 50 FR 13978, "10 CFR Part 140, Criteria for an Extraordinary Nuclear Occurrence," April 9, 1985.

CONCLUSION

Staff stated in the Supplement to this report published in 1986 that this item would be resolved when Subtask (4) was completed. As a part of the improvements to NUREG-0933, the NRC staff clarified in SECY-11-0101, "Summary of Activities Related to Generic Issues Program," dated July 26, 2011,⁷ that the Generic Issues Program will not pursue any further actions toward resolution of licensing and regulatory impact issues. Because licensing and regulatory impact issues are not safety issues by the classification guidance in the legacy Generic Issues Program, these issues do not meet at least one of the Generic Issues Program screening criteria and do not warrant further processing in accordance with Management Directive 6.4, "Generic Issues Program," dated November 17, 2009.⁸ Therefore, this issue will not be pursued any further in the Generic Issues Program.

⁷ SECY-11-0101, "Summary of Activities Related to Generic Issues Program," July 26, 2011.

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⁸ Management Directive 6.4, "Generic Issues Program," U.S. Nuclear Regulatory Commission, November 17, 2009.