

74

RECORD #74

TITLE: Criteria in NUREG Are Not Substitute For Regulations

FICHE: 38275-252

AUG 10 1983

*Thurs
Requirements*

Ira Myers, M.D.
State Health Officer
Alabama Department of Public Health
State Office Building
Montgomery, Alabama 36130

Dear Dr. Myers:

This responds to your June 9, 1983 letter requesting interpretation as to whether the evaluation criteria found in NUREG-0654/FEMA-REP-1, which are referred to in 10 CFR 50.47 (b), act as binding regulation or as advisory guidance.

In order for a nuclear power plant to continue operations or to receive an operating license, the regulations require the NRC to make a finding that the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. Section 50.47 of 10 CFR establishes standards that must be met by the onsite and offsite emergency response plans in order for the staff to make a positive reasonable assurance finding. Guidance to licensees and applicants, as well as to offsite organizations, on methods acceptable to the NRC staff for complying with the Commission's emergency planning regulations for nuclear power reactors is provided in NUREG-0654/FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," Revision 1. This document was published in November 1980 to provide specific acceptance criteria for complying with the standards set forth in Section 50.47 of 10 CFR. The criteria in NUREG-0654/FEMA-REP-1 have been endorsed in Regulatory Guide 1.101, "Emergency Planning and Preparedness for Nuclear Power Reactors," Revision 2, dated October 1981.

The criteria in NUREG-0654/FEMA-REP 1, as with the criteria in any NUREG document, were issued to establish criteria that the NRC staff intends to use in evaluating if an applicant/licensee meets the applicable regulatory requirements. The criteria in a NUREG document are not a substitute for the regulations, and compliance is not a requirement. However, the use of methods or criteria different from those set forth in NUREG documents will be acceptable only if such methods or criteria clearly provide a proper basis for determining that the regulatory requirements have been met.

CONTACT: Perry D. Robinson, IE
492-4866

-2-

Sincerely,
"Original Signed By
R. C. DeYoung"

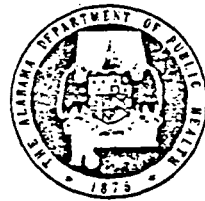
[illegible]



IRA L. MYERS, M.D.
STATE HEALTH OFFICER

State of Alabama
DEPARTMENT OF PUBLIC HEALTH

State Office Building
Montgomery, Alabama 36130



June 9, 1983

Rec'd 6/24/83

Mr. Leonard Bickwit, Jr.
Office of the General Council
U. S. Nuclear Regulatory Commission
Washington, D. C. 30555

Dear Mr. Bickwit:

Pursuant to Subsection 1.32(f) of Subpart B of 10 CFR 1, we request an official written interpretation of 10 CFR 50, Subsection 50.47(b). Specifically please interpretate the applicability of the specific criteria in NUREG 0654: FEMA-REP-1 as a requirement on the licensee's compliance with the standards delineated in Subsection 50.47(b).

The regulation states that "the on-site and off-site emergency response plan for nuclear power reactors must meet the following standards". The footnote to this statement reads "these standards are addressed by specific criteria in NUREG 0654: FEMA-Rep 1". Many of these criteria are listed in NUREG 0654 Subitems being applicable to the licensee. For a licensee to meet the standards of 50.47(b) and thus be in compliance with your regulations, must the licensee meet the applicable criteria subitems of NUREG 0654?

Your prompt consideration of this request will be appreciated.

Sincerely,

Ira L. Myers, M. D.
State Health Officer

ILM:jlm



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

July 6, 1983

MEMORANDUM FOR: Thomas A. Rehm,
Assistant for Operations, OEDO

FROM: Martin G. Malsch, *mgm*
Deputy General Counsel

SUBJECT: ALABAMA'S REQUEST FOR BINDING
INTERPRETATION OF STATUS OF NUREG-0654

The State of Alabama has requested a formal binding interpretation of 10 CFR 50.47(b) by the General Counsel. Specifically, the State wants to know whether the provisions of NUREG-0654 are binding regulation or advisory guidance. Given the lack of dispute about the "guidance" nature of the document, we believe an official interpretation is not needed in order to confirm the NRC's view on this subject. Last year Alabama also asked for a binding interpretation on emergency planning. That request was referred to Brian Grimes for direct response. It is our preference that this request, likewise, be ticketed for direct response to Ed Jordan. Shelly Schwartz has indicated he has no objection to this request. A copy of the letter is attached for your action.

Attachment:
Ltr. 6/9/83 Myers to Bickwit

cc: S. Schwartz, OIE
W. Shields, OELD

Contact:
Mark E. Chopko
x41493