

**MEMORANDUM OF UNDERSTANDING
BETWEEN NRC AND FEMA RELATING TO
RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS**

I. BACKGROUND AND PURPOSE

This Memorandum of Understanding establishes a framework of cooperation between the Federal Emergency Management Agency (FEMA) and the Nuclear Regulatory Commission (NRC) in radiological emergency response planning matters, so that their mutual efforts will be directed toward more effective plans and related preparedness measures at and in the vicinity of nuclear reactors, fuel cycle facilities which are subject to 10 CFR Part 50, Appendix E, and certain other fuel cycle and materials licensees which have potential for significant accidental offsite radiological releases. The memorandum is responsive to the President's decision of December 7, 1979, that FEMA will take the lead in offsite planning and response, his request that NRC assist FEMA in carrying out this role, and the NRC's continuing statutory responsibility for the radiological health and safety of the public.

A separate memorandum has been negotiated to cover NRC/FEMA cooperation and responsibilities in response to an actual emergency including public information activities. In addition, an agreement was also reached between the NRC and FEMA on September 11, 1979, that chairmanship of the Federal Interagency Central Coordinating Committee (now the Federal Radiological Preparedness Coordinating Committee) should be transferred from NRC to FEMA. This agreement was transmitted to other Federal agencies by a joint letter from the Chairman of the NRC and the Director of FEMA. The NRC and FEMA also agreed in principle on September 11, 1979, to the idea of joint participation in the review, assessment and concurrence with regard to State and local emergency response plans. On January 14, 1980, the two agencies entered into a "Memorandum of Understanding Between NRC and FEMA to Accomplish a Prompt Improvement In Radiological Emergency Preparedness" that was responsive to the President's December 7, 1979 statement and was a framework for implementing the September 11, 1979 agreement. According to that memorandum of understanding, FEMA coordinates all Federal planning and takes the lead for developing a program for assessing State and local emergency response plans in all elements of offsite radiological emergency planning, and for making findings and determinations as to the adequacy and capability of implementing State and local plans, and to make those findings and determinations available to NRC. The NRC reviews those FEMA findings and determinations for the purpose of making determinations on the overall state of emergency preparedness for issuance of licenses or shutdown of operating reactors. That arrangement makes the FEMA staff responsible for evaluating the adequacy of State and local plans and for assuring that the plans are capable of implementation on a continuing basis, and therefore substantially avoids duplicative efforts by NRC staff. This memorandum of understanding builds upon the relationship that has been developing between the two agencies and supersedes the January 14, 1980 memorandum.

II. AUTHORITIES AND RESPONSIBILITIES

FEMA - Executive Order 12148 charges the Director, FEMA, with establishing policy for and coordinating all civil emergency planning and assistance functions for Executive agencies (Section 2-101). It also provides that "The Director shall represent the President in working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness mitigation, response, and recovery programs." (Section 2-104).

8012110538

On December 7, 1979, the President, in response to the recommendations of the Kemeny Commission on the accident at Three Mile Island, directed that FEMA assume lead responsibility for all offsite nuclear emergency planning and response.

Specifically, the FEMA responsibilities with respect to emergency preparedness as they relate to NRC are:

1. To take the lead in offsite emergency planning and review and assess State and local emergency plans for adequacy.
2. To review State and local emergency plans in those States affected by operating reactors (report submitted to the President in June 1980).
3. To complete, as soon as possible, the review of State and local emergency plans in those States affected by plants scheduled for operation in the near future.
4. To make findings and determinations as to whether State and local emergency plans are adequate and capable of implementation (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications and equipment adequacy). Notwithstanding the procedures which may be set forth in 44 CFR 350 for requesting and reaching a FEMA administrative approval of State and local plans, findings and determinations on the current status of emergency preparedness around particular sites may be requested by the NRC through the NRC/FEMA Steering Committee and provided by FEMA for use as needed in the NRC licensing process. These findings and determinations may be based upon plans currently available to FEMA or furnished to FEMA by the NRC.
5. To assume responsibility for emergency preparedness training of State and local officials.
6. To develop and issue an updated series of interagency assignments which would delineate respective agency capabilities and responsibilities and define procedures for coordination and direction for emergency planning and response.

NRC - The Atomic Energy Act of 1954, as amended, requires that the NRC grant licenses only if the health and safety of the public is adequately protected. While the Atomic Energy Act does not specifically require emergency plans and related preparedness measures, the NRC had required consideration of overall emergency preparedness as a part of the licensing process.

10 CFR 5550.33, 50.34, 50.47, 50.54, and Appendix E to 10 CFR Part 50 include requirements for the licensee emergency plans. In a Federal Register Notice dated December 24, 1975, entitled "Radiological Incident Emergency Response Planning: Fixed Facilities and Transportation" (40 FR 59494), the Federal Preparedness Agency, a predecessor of FEMA, outlined responsibilities of various Federal agencies in providing assistance to State and local governments in their radiological emergency response planning. Both FEMA and NRC recognize that these responsibilities have been reevaluated and this will be reflected in the reissuance of that Federal Register Notice.

Specifically, the NRC responsibilities for emergency preparedness are:

1. To assess licensee emergency plans for adequacy.
2. To verify that licensee emergency plans are adequately implemented (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications and equipment adequacy).
3. To review the FEMA findings and determinations on the adequacy and capability of implementation of State and local plans.
4. To make decisions with regard to the overall state of emergency preparedness (i.e., integration of emergency preparedness onsite as determined by the NRC and offsite as determined by FEMA and reviewed by NRC) and issuance of operating licenses or shut down of operating reactors.

III. AREAS OF COOPERATION

A. NRC Licensing Reviews

FEMA will provide support for NRC reactor, fuel facility and material licensing reviews, as requested, with regard to the assessment of the adequacy of State and local response plans for accidental radiological releases. This will include timely submittal of an evaluation suitable for inclusion in NRC safety evaluation reports.

Substantially prior to the time that a FEMA evaluation is required with regard to fuel facility and material license review, NRC will identify those fuel and material licensees with potential for significant accidental offsite radiological releases and for those NRC will submit to FEMA the emergency plans as they are completed.

FEMA routine support will include providing assessments of State and local plans related to reactor Construction Permit and Operating License reviews and continuing assessments of State and local plans during the facility lifetime. To support its findings and determinations, FEMA will make expert witnesses available before the Commission, the NRC Advisory Committee on Reactor Safeguards, NRC hearing boards and administrative law judges, any court actions, and during any related discovery proceedings. Nothing in this document shall be construed in any way to diminish NRC's responsibility for protecting the radiological health and safety of the public.

B. FEMA Review of State and Local Plans

NRC will assist in the development and review of State and local plans through its membership on the Regional Assistance Committees. FEMA will chair the Regional Assistance Committees. Consistent with NRC's statutory responsibility, NRC will recognize FEMA as the interface with State and local governments for interpreting radiological emergency preparedness criteria as it affects those governments and for reporting the results of any evaluation of State and local governments' emergency preparedness to those governments.

Where questions arise concerning the interpretation of the criteria, such questions will continue to be referred to FEMA headquarters, and when appropriate to the NRC/FEMA Steering Committee to assure uniform interpretation.

C. Evaluation of Exercises

FEMA and NRC will cooperate in determining exercise requirements for joint licensee, State, local and Federal agencies and will jointly observe and evaluate such exercises. NRC and FEMA will also jointly agree upon a set of exercise scenarios from which the scenario for a particular exercise may be selected.

D. Emergency Preparedness Guidance

NRC has lead responsibility for the development of emergency preparedness guidance for licensees. FEMA has lead responsibility for the development of emergency preparedness guidance for State and local agencies.

NRC and FEMA recognize the need for an integrated assessment of the degree of emergency preparedness by NRC licensees and State and local governments. NRC and FEMA will each, therefore, provide opportunity for the other agency to review and comment on emergency preparedness guidance prior to adoption as formal agency guidance.

E. Support for Automated Information Retrieval Systems

FEMA and NRC will each provide the other with continued access to those automatic data processing support systems which contain emergency preparedness data developed and/or utilized during the transition period.

At NRC this includes Automated Information Retrieval System (AIREs) support to the extent that it does not affect duplication or records retention. At FEMA this includes technical support to the Radiological Emergency Preparedness Management Information System. This agreement is not intended to include the automated information retrieval support for the national level emergency response facilities.

F. Ongoing NRC Programs

Ongoing NRC and FEMA research and development programs that are related to State and local emergency planning and preparedness will be coordinated.

G. Public Information Programs

FEMA will take the lead in developing public information programs. NRC will assist FEMA by reviewing for accuracy educational materials concerning radiation and its hazards and information regarding appropriate actions to be taken by the general public in the event of an accident involving radioactive materials. Public information activities will be addressed in the MOU dealing with response to actual emergencies.

IV. NEAR-TERM COOPERATIVE MEASURES

In order to achieve a prompt improvement in the state of emergency preparedness at and around nuclear power facilities, and because of the need for an integrated assessment of the degree of preparedness, FEMA and NRC recognize the need for an especially close working relationship.

The NRC/FEMA Steering Committee on Emergency Preparedness will be the focal point for coordination of emergency preparedness and response activities between the two agencies. The Steering Committee will consist of an equal number of members to represent each agency with one vote per agency. Where the Steering Committee cannot agree on the resolution of an issue, the issue will be referred to NRC and FEMA management. The NRC members will have lead responsibility for licensee preparedness and the FEMA members will have lead responsibility for State and local preparedness. The Steering Committee will coordinate the preparedness evaluation activities and develop upgraded acceptance criteria for licensee, State, and local emergency preparedness. NRC and FEMA will then consider and adopt criteria, as appropriate, in their respective jurisdictions. (See Attachment 1.)

V. WORKING ARRANGEMENTS

- A. The normal point of contact for implementation of the points in this Memorandum will be the NRC/FEMA Steering Committee.
- B. The Steering Committee will establish the day-to-day procedures for assuring that the arrangements of this Memorandum are carried out.


VI. MEMORANDUM OF UNDERSTANDING

- A. This Memorandum of Understanding shall be effective as of November 1, 1980, and shall continue in effect unless terminated by either party upon 30 days' notice in writing.
- B. Amendments or modifications to this Memorandum of Understanding may be made upon written agreement by both parties to the Memorandum.

Approved for the U.S. Nuclear
Regulatory Commission


William J. Dircks (date)
Executive Director for Operations

Approved for the U.S. Federal
Emergency Management Agency


Frank A. Cann (date)
Associate Director for Plans
and Preparedness

Attachment: FEMA/NRC Steering Committee

ATTACHMENT 1

FEMA/NRC STEERING COMMITTEE

Purpose

Coordinate efforts to promptly upgrade emergency preparedness for nuclear power reactors as described in the NRC and FEMA rules and the NRC/FEMA MOU's on Planning and on Response. Coordinate consistent criteria for licensee, State, and local emergency preparedness.

Membership

Co-Chairmen:

B. Grimes	NRC
J. McConnell (John Dickey)	FEMA

Members:

R. Jaske	FEMA
M. Sanders	FEMA
H. Gaut	FEMA
L. Higginbotham	NRC
K. Perkins	NRC
F. Pagano	NRC

Membership Changes

Changes to the membership of the NRC/FEMA Steering Committee may be made by the co-chairman representing the agency whose member is being changed.

Operating Procedures

The Steering Committee will maintain a record of each meeting to include identification of issues discussed and conclusions reached. No meeting will be held without the attendance and participation of at least the co-chairman or two assigned members of each agency.

Coordination

When items involving responsibilities of other NRC or FEMA offices are discussed, the affected office will be contacted as appropriate.