



COMMISSIONER

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

May 13, 2019

The Honorable Dianne Feinstein
Ranking Member, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Senator Feinstein:

Thank you for your questions about the Nuclear Regulatory Commission's (NRC's) Mitigation of Beyond-Design-Basis Events rulemaking at the May 1 hearing. I share your concerns about the final rule and write separately from my Commission colleagues to provide my individual views on this critical nuclear safety issue.

The most important thing to understand about the final rule developed by the majority is that it does nothing to enhance the safety of nuclear power plants. Instead of establishing commonsense and non-controversial safety standards, the majority of the Commission opted to require nothing more than what was already required in the Commission's March 2012 mitigating strategies order.

The 2012 order required nuclear power plants to have mitigating strategies to cope with severe, beyond-design-basis events. New FLEX equipment, including generators, pumps, cables, and hoses, was stationed at all of the nuclear power plants across the country to provide additional safety capabilities. Meanwhile, licensees and the NRC staff embarked on a multi-year effort using the latest science and modern methods to determine the present-day flooding and earthquake hazards for the nation's nuclear power plants. The final post-Fukushima rule

was supposed to bring those two parallel efforts together, requiring the FLEX equipment to be reasonably protected from the reevaluated hazards.

But under the final rule written by the Commission majority, the FLEX equipment at nuclear power plants is not required to be reasonably protected from the up-to-date flooding and earthquake hazards. The rule allows licensees to ignore these reevaluated hazards with their FLEX strategies and only be prepared for the old, outdated hazards.

This was a complete U-turn for NRC. In the years leading up to the decision on the draft final rule, the Commission had repeatedly and unanimously found that updated safety standards addressing the reevaluated hazards were necessary to adequately protect the public. None of the comments submitted on the proposed rule – from industry, states, public interest groups, or concerned citizens – questioned the need for the commonsense requirement to protect the FLEX equipment from the actual natural hazards at the site.

I strongly believe that the requirements contained in the draft final rule are necessary to adequately protect public health and safety. There is broad agreement that the new FLEX equipment at nuclear power plants is the most significant post-Fukushima safety improvement. But to enhance safety, the equipment must work when called upon. And that requires protecting it from entirely predictable natural hazards. Failing to protect the equipment from the real earthquake and flooding hazards makes no sense. NRC also needs to make sure that plants are ready and able to use the equipment if it is needed. That requires adequate licensee communications and staffing, as well as routine exercises and drills to practice using the FLEX equipment to implement the mitigating strategies. But the final rule written by the majority of the Commission dropped all of these key proposed requirements.

While it is true that NRC can require plant-specific modifications based on the reevaluated flooding and earthquake hazards, those potential plant-specific modifications were

never intended to take the place of this post-Fukushima rule. They are two separate sets of requirements. And the possibility of requiring plant-specific modifications on a case-by case basis is not a reason to leave all of the FLEX equipment nation-wide vulnerable to the actual natural hazards that could occur at nuclear power plants. Nor is the site-specific process a mechanism to require plants to conduct exercises or drills with the FLEX equipment or to have adequate communications and staffing capabilities to respond to beyond-design-basis natural disasters.

The natural hazards facing nuclear power plants are not static. We know from the Fourth National Climate Assessment and other authoritative climate reports that climate change will impact some of these hazards, such as flooding, hurricanes, and drought. NRC's safety standards need to account for the changing frequency, intensity, and duration of these events. But this rule instead allows licensees to rely on outdated flood hazard estimates, most of which were calculated decades ago and are not based on recent scientific studies or data. In my view, that moves NRC in exactly the wrong direction.

The post-Fukushima mitigating strategies rule was always intended to be the agency's response to several key Near-Term Task Force recommendations. Rather than following through on these planned safety improvements, critical aspects of those recommendations were simply left unaddressed by the rule. As a result, the rule fails to confront a fundamental lesson of the Fukushima accident – that nuclear power plants must be fully prepared for the natural hazards that could threaten their safe operation. Unfortunately, the final rule approved by the Commission does not ensure that nuclear power plants will be adequately protected from the most severe events they may experience today or in the future.

Thank you for your interest in this important nuclear safety issue. Please feel free to contact me at (301) 415-1839, if you have any questions or need additional information.

Sincerely,



Jeff Baran
Commissioner

cc: The Honorable Lamar Alexander
Chairman, Subcommittee on Energy and Water Development