LEGISLATIVE RECOMMENDATION

EMERGENCY PLANNING AND RESPONSIBILITY ACT (EPRA)

A BILL REQUIRING the appropriate regulatory agencies (possibly the California Energy Commission, California Emergency Management Agency, California Public Utilities Commission or a combination thereof) **to analyze and quantify the costs, risks and vulnerabilities to the state, if California were to unilaterally expand its emergency planning and evacuation zones for a radiological release from the 10-mile limit of the US Nuclear Regulatory Commission, to the 50 mile limit declared in Japan after the Fukushima reactor disaster and meltdown.** The logistic and financial analysis created may be incorporated into decision making by the California Public Utilities Commission, California Energy Commission and the California Independent System Operator, in determining the state's future energy plans and state processes affecting the relicensing of the two existing nuclear reactors. Diablo Canyon and San Onofre Nuclear Generating Station (SONGS).

This study will be important for economic planning purposes, and as such poses no jurisdictional conflict with the U.S. Nuclear Regulatory Commission (NRC). Only the NRC can determine the size and distance of emergency planning zones, and impose requirements on nuclear licensees to plan for and support the emergency evacuation zones surrounding their reactors. However, as the devastating reactor meltdowns at Fukushima, Japan in March 2011 made abundantly clear, the radioactive releases traveled well beyond a 10-mile radius from the crippled reactors, and have contaminated thousands of square miles and forced the evacuation of tens of thousands of residents (*citations will be provided*). At that time, the US NRC advised Americans residing in Japan to move *at least 50 miles* from the scene of the accident (*citation to be provided*). This recommendation should portend no less strict a safeguard in the continental United States. The Japanese government was caught ill prepared, either logistically or financially, to cope with the increased size of the emergency zone that expanded beyond what they had believed was reasonable or possible. This should be a cautionary lesson to California, where two nuclear reactors are located near active earthquake faults. According to the NRC and 2000 US Census statistics, 18 Million people live within 50 miles of SONGS, second in density only to New York City (within 50 miles of the Indian Point reactors).

The US NRC may never make such a recommendation or requirement for its licensees to expand the emergency planning zones to 50 miles. This in no way prevents the state of California from investigating the costs for preparation and planning, should such an incident occur and create effects beyond 10 miles. The Supreme Court Decision, PACIFIC GAS & ELEC. v. ENERGY RESOURCES COMMISSION, 461 U.S. 190 (1983) 461 U.S. 190, validated that jurisdictional rational in their opinion, "…states exercise their traditional authority over economic questions such as the need for additional generating capacity, the type of generating facilities to be licensed, land use, and ratemaking."

In addition, the Bloomberg financial news (Bloomberg.com) of December 9, 2011 quotes NRC chairman Greg Jaczko, stating, "…he hasn't examined evacuation plans for New York specifically. *Evacuation plans aren't considered during license renewals and are the responsibility of state and*

local authorities, [emphasis added] who would work with plant owners in the event of an emergency, he said." This offers further validation of state jurisdiction in this area.

Among the questions the state must consider are the jurisdictional bounds of fiduciary responsibility for compensation, clean up and property loss claims in the aftermath of nuclear contamination. Under the Price-Anderson Act all claims for losses arising from an accident at a nuclear power plant are capped at a total of $12.6 Billion. The total claims estimate for Fukushima was placed at $23.6 Billion only three months after the accident and may now climb as high as $100 billion including clean-up costs (*citations to be provided*).

The urgency for this matter comes from revelations reported by InsideEPA from November, 2010 that:

EPA, the Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) are struggling to determine which agency -- and with what money and legal authority -- would oversee cleanup in the event of a large-scale accident at a nuclear power plant that disperses radiation off the reactor site and into the surrounding area.

The effort, which the agencies have not acknowledged publicly, was sparked when NRC recently informed the other agencies that it does not plan to take the lead in overseeing such a cleanup and that money in an industry-funded insurance account for nuclear accidents would likely not be available, according to documents obtained by Inside EPA under the Freedom of Information Act (FOIA). (*FOIA documents will be provided*)

In the absence of a coordinated or fully funded federal response plan, the state of California shall require that the (CEC, CalEMA) or a group of state agencies (including the CPUC for funding and economics) will be required to develop a plan to determine what:

- resources
- personnel
- physical infrastructure (including upgrades or new evacuation routes)
- communications systems
- training and public outreach

would need to be put into place if the emergency zone for a nuclear release incident at one of the two operating and seismically vulnerable power plants should occur and exceeds the NRC's current 10 mile contamination and evacuation zone. Absent federal coordination and cost-sharing, the state must also determine how these programs would be funded.

Finally, the US NRC has extended its Waste Confidence Decision to declare that high-level radioactive waste may remain on site at the Diablo Canyon and SONGS nuclear facilities for up to 120 years after the cessation of power generation, and is now considering expanding that to as long as 300 years (*citation will be provided*). As the potential for seismic activity on the California coast has little chance of diminishing within a 120-300 year period, the study proposed by this legislation will carry all risk and cost estimates forward for both the 120 and potential 300 year time frame.