Nuclear Regulatory Commission § 140.83

The only interrelation between the values selected for the discharge criteria and the damage criteria is that the discharge values are set so low that it is extremely unlikely the damage criteria could be satisfied unless the discharge values have been exceeded.

(3) The first part of the test is designed so that the Commission can assure itself that something exceptional has occurred; that something untoward and unexpected has in fact taken place and that this event is of sufficient significance to raise the possibility that some damage to persons or property offsite has resulted or may result. If there appears to be no damage, the waivers will not apply because the Commission will be unable, under the second part of the test, to make a determination that “substantial damages” have resulted or will probably result. If damages have resulted or will probably result, they could vary from de minimis to serious, and the waivers will not apply until the damages, both actual and probable, are determined to be “substantial” within the second part of the test.

(4) The presence or absence of an extraordinary nuclear occurrence determination does not concomitantly determine whether or not a particular claimant will recover on his claim. In effect, it is intended primarily to determine whether certain potential obstacles to recovery are to be removed from the route the claimant would ordinarily follow to seek compensation for his injury or damage. If there has not been an extraordinary nuclear occurrence determination, the claimant must proceed (in the absence of settlement) with a tort action, but the waivers will not apply until the damages, both actual and probable, are determined to be “substantial” within the second part of the test.

§ 140.82 Procedures.

(a) The Commission may initiate, on its own motion, the making of a determination as to whether or not there has been an extraordinary nuclear occurrence. In the event the Commission does not so initiate the making of a determination, any affected person, or any licensee or person with whom an indemnity agreement is executed or a person providing financial protection may petition the Commission for a determination of whether or not there has been an extraordinary nuclear occurrence. If the Commission does not have, or does not expect to have, within 7 days after it has received notification of an alleged event, enough information available to make a determination that there has been an extraordinary nuclear occurrence, the Commission will publish a notice in the FEDERAL REGISTER setting forth the date and place of the alleged event and requesting any persons having knowledge thereof to submit their information to the Commission.

(b) When a procedure is initiated under paragraph (a) of this section, the Commission will designate members of the principal staff to begin immediately to assemble the relevant information and prepare a report on which the Commission can make its determination.

§ 140.83 Determination of extraordinary nuclear occurrence.

If the Commission determines that both of the criteria set forth in §§ 140.84 and 140.85 have been met, it will make the determination that there has been an extraordinary nuclear occurrence. If the Commission publishes a notice in the FEDERAL REGISTER in accordance with § 140.82(a) and does not make a determination within 90 days thereafter that there has been an extraordinary occurrence, the Commission will bring the matter before the Nuclear Regulatory Commission. The Commission will then proceed to make the determination.
nuclear occurrence, the alleged event will be deemed not to be an extraordinary nuclear occurrence. The time for the making of a determination may be extended by the Commission by notice published in the Federal Register.

[33 FR 15999, Oct. 31, 1968]

§ 140.84 Criterion I—Substantial discharge of radioactive material or substantial radiation levels offsite.

The Commission will determine that there has been a substantial discharge or dispersal of radioactive material offsite, or that there have been substantial levels of radiation offsite, when, as a result of an event comprised of one or more related happenings, radioactive material is released from its intended place of confinement or radiation levels occur offsite and either of the following findings are also made:

(a) The Commission finds that one or more persons offsite were, could have been, or might be exposed to radiation or to radioactive material, resulting in a dose or in a projected dose in excess of one of the levels in the following table:

<table>
<thead>
<tr>
<th>Type of emitter</th>
<th>Column 1 Offsite property, contiguous to site, owned or leased by person with whom an indemnity agreement is executed</th>
<th>Column 2 Other offsite property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alpha emission from transuranic isotopes.</td>
<td>0.35 microcuries per square meter.</td>
<td>3.5 microcuries per square meter.</td>
</tr>
<tr>
<td>Alpha emission from isotopes other than transuranic isotopes.</td>
<td>35 microcuries per square meter.</td>
<td>3.5 microcuries per square meter.</td>
</tr>
<tr>
<td>Beta or gamma mision.</td>
<td>40 millirads/hour @ 1 cm².</td>
<td>4 millirads/hour @ 1 cm².</td>
</tr>
</tbody>
</table>

1 The maximum levels (above background), observed or projected, 8 or more hours after initial deposition.
2 Measured through not more than 7 milligrams per square centimeter of total absorber.


§ 140.85 Criterion II—Substantial damages to persons offsite or property offsite.

(a) After the Commission has determined that an event has satisfied Criterion I, the Commission will determine that the event has resulted or will probably result in substantial damages to persons offsite or property offsite if any of the following findings are made:

(1) The Commission finds that such event has resulted in the death or hospitalization, within 30 days of the event, of five or more people located offsite showing objective clinical evidence of physical injury from exposure to the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material; or

(2) The Commission finds that $2,500,000 or more of damage offsite has occurred or will probably be sustained by any one person, or $5 million or more of such damage in the aggregate has been or will probably be sustained, as the result of such event; or