



NUCLEAR ENERGY INSTITUTE

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March 28, 2005

Mr. Nader Mamish
Director, Emergency Preparedness Directorate
Office of Nuclear Security and Incident Response
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: NEI 10 CFR 50.54 (q) Guidance, March 2005
NEI White Paper "Emergency Plan Change Process 10 CFR 50.54(q)"
Request for Endorsement

Dear Mr. Mamish:

On February 14, 2005, the NRC issued Regulatory Issue Summary 2005-02 ("RIS") Clarifying the Process for Making Emergency Plan Changes. This RIS was prompted by the various differences in interpretation of the application of 50.54(q), which determines whether a proposed change to a licensee's emergency plan requires NRC approval.

The differences in interpretation of this regulation have become a more pressing concern as licensees seek to revise their emergency plans in light of the many changes in the level of technical support, communications related technology, equipment and facility modifications, and security enhancements that have an impact on emergency planning.

Most of the changes identified are to make improvements that would allow the plan to function in a more optimal manner. As such, there is a clear need to implement a regulatory process that encourages licensees to make plan changes to enhance public safety without imposing unnecessary regulatory burden.

The Decrease in Effectiveness (DIE) criteria contained in the RIS is a step in the right direction but limits the ability of emergency planners to be responsive to their stakeholders, including members of the utility Emergency Response Organization and state and local emergency response agencies. The criteria set out in the RIS should take into account the substantial margin of safety, which may have accumulated over the years, and which in many cases, may already be built into the licensees Plan. The

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industry should be able to implement aspects of the plan where greater information and knowledge demonstrate that excessive margin can be removed and, in their place, putting more efficient or effective methods of performing the particular function(s). The clear benefits of applying a performance-based approach to emergency planning should be recognized. The interpretation of DIE criteria should not create a substantial regulatory burden for both the agency and licensees without a demonstrable improvement of safety.

The enclosed white paper *Emergency Plan Change Process 10 CFR 50.54(q)*, adopts many of the concepts incorporated into revision of 10 CFR 50.59. The white paper recommends that the evaluation of whether there is a decrease in effectiveness consider several tests, an affirmative response to any one of which would establish that the change requires NRC approval. This has been incorporated into the NEI 10 CFR 50.54 (q) Guidance, March 2005, Definitions and Applicability of Terms Section 4. The guidance also reflects industry and staff discussions which took place during January 10, 2005 meeting between representatives of NEI and the industry and the NRC staff.

The industry recommends that the NRC adopt the proposed criteria for a DIE set out in the enclosed NEI 50.54(q) Guidance March 2005 which provides a rigorous review process to determine whether a proposed change to the emergency plan warrants prior NRC review. This action would relieve the industry and the NRC of the undue regulatory burden while ensuring that licensees follow the rigorous evaluation/screening process established in the NEI 50.54(q) Guidance.

Once endorsed, I suggest that we discuss coordination of an NRC/industry implementation workshop in the spring time frame, or as soon as reasonably practical. If you have any questions regarding this submittal or request a meeting, please contact me at (202) 739-8110 or by e-mail (apn@nei.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Nelson", with a stylized flourish at the end.

Alan P. Nelson

c: Eric Leeds

Enclosures