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Emergency Action Level (EAL) Frequently Asked Questions (FAQs) Process

Purpose: Provide a pilot process for documenting and resolving issues dealing with the interpretation or applicability of emergency preparedness (EP) regulatory guidance issued or endorsed by the Nuclear Regulatory Commission (NRC) in a collaborative and open context.

Scope: The FAQ process shall be limited during the pilot program to the following EAL guidance documents endorsed under Revision 4 to Regulatory Guide 1.101, "Emergency Planning and Preparedness for Nuclear Power Reactors," dated July 2003:

- Revision 4 to Nuclear Energy Institute (NEI) 99-01, "Methodology for Development of Emergency Action Level," dated January 2003,
- Revision 2 to NUMARC/NESP-007, "Methodology for Development of Emergency Action Levels," dated January 1992, and
- Revision 1 to Appendix 1, "Emergency Action Level Guidelines for Nuclear Power Plants," of NUREG-0654/FEMA-REP-1, dated November 1980.

The EAL FAQ process is intended to clarify the staff's interpretation of existing regulatory guidance issued or endorsed by the NRC, and shall NOT be used to create new regulatory positions or guidance. The pilot EAL FAQ process is not intended to involve issues involving Safeguards Information.

FAQ Development: An EAL FAQ shall be submitted by the Industry to NEI. Questions may be plant specific, but have the potential to affect more than one plant, or questions may be generic and involve many facilities. It is important to involve the appropriate stakeholders in development of the EAL FAQs. NEI will be responsible for initially screening the EAL FAQs received from the Industry to ensure applicability, eliminate redundancy with existing or previously answered EAL FAQs, verify that sufficient information is provided to properly categorize and evaluate issue. NEI will be responsible for maintaining an EAL FAQ log and assigning a unique tracking number for FAQs received after completing the initial screening described above.

EAL FAQs identified by NRC staff or submitted by other external stakeholders will be forwarded to the Emergency Preparedness Directorate (EPD) FAQ Coordinator. Regional NRC staff may use Manual Chapter 0801, "Reactor Oversight Process Feedback Program," for guidance in developing their FAQ. Proposed EAL FAQs will then be forwarded by the EPD FAQ Coordinator to the designated NEI Coordinator.

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FAQ Resolution: Periodic public meetings will be used to review EAL FAQs to: (1) obtain consensus that an issue is appropriately captured, (2) vet positions to clarify the issue and identify possible solutions, and (3) work to achieve a consensus on issue resolution. A public meeting will include NRC and NEI staff at a minimum. In addition, licensees, the Office of General Counsel (OGC), NRC resident inspectors, regional staff, and interested members of the general public may attend to represent the issue.

The EPD FAQ Coordinator will be responsible for: (1) scheduling public meetings in coordination with the NEI Coordinator, (2) providing appropriate public notice and coordinating activities per the NRC Management Directive 3.5 Handbook, "Attendance at NRC Sponsored Meetings," and (3) serving as the chairperson for the joint NRC/NEI public meeting. NRC attendance at the public meeting will include, at a minimum, the EPD FAQ Coordinator and the Chief, Licensing & Regulatory Improvements Section, or designated alternate. The OGC and appropriate NRC staff involved in the review of licensee submittals or determination of NRC guidance should also be invited to public meetings. Public meetings to address outstanding EAL FAQs should be conducted at least once per calendar quarter, but may be scheduled more frequently at the discretion of the EPD FAQ Coordinator or as requested by the NEI Coordinator.

The NEI Coordinator will be responsible to present proposed EAL FAQs and recommended resolution(s) for discussion at the public meeting. If the EPD FAQ Coordinator determines that an EAL FAQ does not adequately describe the issue or provide sufficient supporting information, the EAL FAQ will be withdrawn from consideration until clarification is provided by through the NEI Coordinator.

Once consensus on resolution of an FAQ is achieved, the EPD FAQ Coordinator will post the EAL FAQ and proposed resolution as "TENTATIVE" on the NRC Website (www.nrc.gov/what-we-do/emerg-preparedness/XXXX/html) for a 30-day comment period. The EPD FAQ Coordinator will also submit the FAQ and proposed resolution to OGC for concurrence. Any objections raised during this 30-day period will be forwarded to the NEI Coordinator for evaluation and discussion with Industry stakeholders. The EPD FAQ Coordinator will coordinate with the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), through the EPD Communications Team, the evaluation of any objections raised by Federal, State or local government agencies and officials. Objections to a tentative EAL FAQ resolution will be discussed at the next joint NRC/NEI public meeting to determine whether a change to the proposed resolution or further clarification of the EAL FAQ is warranted.

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If no objections are not raised within the 30-day comment period, the EAL FAQ and resolution will be forwarded to the EPD Director for approval. Once approved, documentation of the EAL FAQ and resolution will be entered in the Agency Documents Access and Management System (ADAMS) and updated to indicate “APPROVED” on the NRC Website. In limited cases where exigent resolution is needed and consensus is reached on a resolution to an EAL FAQ, NEI may request the NRC staff to bypass the 30-day comment period.

EAL FAQs and resolutions posted on the NRC Website represent NRC staff interpretations of EAL schemes and should be treated as a clarification to existing NRC issued or endorsed guidance. Approved FAQ resolutions, associated with the EAL scheme outlined in NEI 99-01, should be incorporated into the text of NEI 99-01 when the next revision is issued.

If consensus cannot be reached after two consecutive joint NRC/NEI public meetings, the EPD FAQ Coordinator, in consultation with the Director EPD, OGC and appropriate NRC staff, will identify the NRC’s proposed resolution to the NEI Coordinator. An alternative resolution may be prepared in writing by the NEI/Industry and provided to the EPD FAQ Coordinator at least one week in advance of the subsequent public meeting. If a consensus still cannot be reached, then the EPD FAQ Coordinator may forward the EAL FAQ with the NRC staff’s and proposed NEI/Industry alternative to the Director, Division of Preparedness and Response, for final resolution and approval or withdrawal of the FAQ.

An EAL FAQ can be open for a six month period. If resolution is not reached within that time frame, the EAL FAQ will be withdrawn from consideration. Any pending regulatory action involving an issue with an outstanding EAL FAQ may be deferred for the six month period that the FAQ is an open issue. If resolution of an EAL FAQ does not occur within the 6 month period, regulatory action will be taken.

A evaluation will be provided in writing to DHS/FEMA of any objections to EAL FAQs or tentative resolutions raised by DHS/FEMA, State and local agencies and officials.