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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 EAL regulatory guidance issued or endorsed by the Nuclear Regulatory Commission (NRC). No later than one year following implementation on the pilot process, NRC staff will evaluate whether to formally adopt the EAL FAQ process and, if retained, whether to consider expanding FAQ process to other emergency preparedness (EP) guidance.

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 EAL FAQ process shall also not be used by NEI/industry to determine whether a proposed EAL change would constitute a decrease in effectiveness (DIE) per 10 CFR Part 50.54(q). Issues involving Safeguards Information will not be considered.

Periodic joint public meetings between the NRC and NEI/industry are intended to allow the presentation and discussion of questions on EAL guidance to ensure that issues and proposed resolutions are adequately vetted and understood. The staff will not negotiate a resolution or provide a final decision on a proposed resolution during the public meetings.

The appropriate "sensitivity review" will be performed in accordance with SECY-04-0191, "Withholding Sensitive Unclassified Information Concerning Nuclear Power Reactors from Public Disclosure," before placing any NRC-generated documents on the NRC website or making them available in the Agency Documents Access and Management System (ADAMS).

FAQ Development: An EAL FAQ may 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, and verify that sufficient information is provided to properly categorize and evaluate issue. NEI will also be responsible for maintaining an EAL FAQ log and assigning a unique tracking number for FAQs received after completing the initial screening described above.

DRAFT

EAL FAQs submitted by external stakeholders or by NRC staff 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.

FAQ Resolution: Before a decision is made by the NRC staff on the resolution of an EAL FAQ, a public meeting will be held to provide NEI/industry representatives the opportunity to clearly describe the issue, and to identify and describe the merits of their proposed resolution. During the public meeting, NRC participants may ask questions of the NEI/industry representatives to further clarify the issue of concern and may provide their preliminary views on the proposed resolution. However, there will be no negotiation of differences between NEI/industry representatives and NRC staff at the public meeting regarding the appropriate resolution of the EAL FAQ issue.

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, representatives of states, local governmental bodies and Federally-recognized Indian tribes, and interested members of the general public may attend to observe or present their views. 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 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 FAQ issues and proposed resolution(s) submitted by NEI 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 by the NRC staff until clarification is provided by through the NEI Coordinator.

Following the public meeting, EAL FAQs and proposed resolutions presented will be discussed by appropriate NRC staff. If the EAL FAQ resolution is considered acceptable by NRC staff, 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. 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.

DRAFT

All comments received by NRC staff will be made available through ADAMS for consideration and use by external stakeholders. The EPD FAQ Coordinator will coordinate the evaluation of any objections raised by Federal, State or local government agencies and officials, and Federally-recognized Indian tribes with the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), through the EPD Communications Team, and the Office of State and Tribal Programs as applicable.

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 ADAMS and updated to indicate "APPROVED" on the NRC Website. 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.

Any revisions to a resolution proposed by either the NRC staff or NEI/industry representatives, in an effort to develop an answer acceptable to both sides, would be conveyed to the other party by mail or fax, and entered by the EPD FAQ Coordinator into ADAMS. Comments received on a tentative EAL FAQ resolution, and any proposed revisions to a resolution, will be discussed at the next public meeting to determine whether a change to the proposed resolution or further clarification of the EAL FAQ is warranted. If the NRC staff fails to agree with NEI/industry proposed resolution after two consecutive public meetings, the EPD FAQ Coordinator may forward the EAL FAQ with the NRC staff's and any proposed NEI/industry alternative(s) 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.