

July 18, 2005

Mr. Alan P. Nelson
Chief, Emergency Preparedness
Regulatory Affairs
Nuclear Energy Institute
1776 I Street, NW; Suite 400
Washington, DC 20006-3708

Dear Mr. Nelson:

I would like to thank you, your staff, and the NEI Emergency Preparedness Working Group for the efforts undertaken to develop the industry white paper, "Enhancements to Emergency Preparedness Programs for Hostile Action Related Events," dated May 2005. We have reviewed the white paper and your May 25, 2005 letter and plan to pursue endorsement of the paper through the NRC's processes. In the meantime, we offer comments, as noted below.

Your letter requested that the NRC synchronize implementation schedules associated with the Safeguards Advisory 05-02 and the emergency preparedness bulletin. The bulletin which was issued on July 18, 2005, requests information on changes that licensees have made or plan to make concerning security-based emergency preparedness program capabilities. The bulletin is intended to gather information from licensees and not to direct schedules for implementation of specific actions. As such, the actions and schedules in Safeguards Advisory SA 05-02 are independent from the information provided in the bulletin. The staff will consider the suggestion for synchronization of implementation schedules associated with the safeguards advisory with any future regulatory actions.

Concerning the area of NRC notifications, the NEI letter of May 25, 2005 states that "the first accelerated call from the plant should go to the NRC incident response center rather than state/local agencies . . ." We disagree with this statement. The information provided in the bulletin does not change the existing notification capabilities to state/local agencies. 10 CFR 73.55 specifically requires that licensees maintain continuously manned alarm stations with the capability to communicate with local law enforcement authorities (LLEAs). The information provided in the bulletin does not alter that capability or impact the existing timeliness of communications between the licensees and LLEAs. Further, 10 CFR 50, Appendix E requires that licensees have the capability to notify responsible State and local governments within 15 minutes after declaring an emergency. The information provided in the bulletin does not relieve the licensee of that regulatory responsibility. The first accelerated call to the NRC operations center supports prompt notification of other licensees to the possibility of a coordinated attack as well as provides for notifications to federal agencies in accordance with the National Response Plan. If we receive plausible arguments from stakeholders that the accelerated call adversely affects state/local capabilities, the staff will reconsider the recommendation of future regulatory actions and appropriately advise the Commission.

The NEI letter also requested “a process for addressing frequently asked questions related to post-9/11 emergency preparedness enhancements.” As we noted earlier, the NRC is requesting responses from licensees within 30 days of the issue date of the bulletin regarding the status and plans of licensees to the areas discussed in the bulletin. Following a review of licensee responses, the staff should be in a better position to evaluate if a frequently asked questions process is worthwhile. We appreciate your suggestion and will discuss the coordination of this process with you at a later time, if necessary.

The NEI letter also discusses industry implementation times for the five enhancements addressed in the NEI white paper. Regarding those implementation times, the staff plans to evaluate the specific arguments for implementation of actions by licensees in their response to the questions in the bulletin. The staff is prepared to support the schedule in the NEI white paper for implementation of a security-based drill and exercise program.

The staff agrees that changes made by licensees consistent with the information provided in the bulletin would not decrease the effectiveness of the licensee’s emergency plan and could be performed under 10 CFR 50.54 (q) without the NRC’s prior approval. It should be noted however, that there are several differences between the NEI white paper and the information provided in the attachments to the bulletin. Those differences do not in general alter the intent of the information provided in the bulletin, but may influence staff recommendations to the Commission as to whether future regulatory actions are warranted. The following should be considered as differences between the NEI white paper and the NRC bulletin:

- The definition of HOSTILE ACTIONS in the NEI white paper does not fully encompass situations where acts of civil disobedience or felonious actions should be excluded from consideration in the emergency action levels. The NRC bulletin attachment provides a more descriptive definition of HOSTILE ACTIONS and would be considered acceptable by the staff for inclusion in modified emergency action level schemes.
- The reference to a 15 minute “goal” for the accelerated NRC notifications may not suffice to ensure prompt notifications to other licensees and federal agencies.
- In the description of alternative facility capabilities and resources under emergency response organization augmentation, the staff considers it appropriate to have general plant drawings, procedures, phones, and (ideally) computer links to the site in alternative facilities.
- The NEI white paper is silent on use of current drill/exercise critique processes and licensee participation in security-based exercises during the drill/exercise implementation phases. The staff considers it appropriate for licensees to follow the standard post-drill/exercise critique process for security-based drills and exercises. Further, the NEI white paper states “NRC participation in 1-2 biennial exercises per year” under Phase III of the “Integrated Response Exercise Program Summary.” The staff understands this to mean that the industry is committed to conduct one to two full-participation terrorist based exercises per year starting in calendar year 2006, in which the NRC may choose to participate.

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In summary, the staff intends to pursue endorsement of the enhancements provided by the NEI white paper in an appropriate regulatory process. The work performed by NEI and the Emergency Preparedness Working Group is commendable and I support the staff's involvement in the resolution of these differences. The staff is prepared to support the integrated emergency preparedness/security drill program and will proceed according to that schedule.

The staff intends to inform the Commission of the responses to the bulletin with recommendation of any followup regulatory actions, as necessary. If you have any questions, please do not hesitate to contact Mr. Greg Casto at (301) 415-4072 or e-mail: gac@nrc.gov, or myself at (301) 415-1086.

Sincerely,

/RA/

Nader L. Mamish, Director
Emergency Preparedness Directorate
Office of Nuclear Security and Incident Response

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Nader L. Mamish, Director
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