



NUCLEAR ENERGY INSTITUTE

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May 9, 2008

Mr. Christopher G. Miller
Deputy Director for Emergency Preparedness
Division of Preparedness and Response
Office of Nuclear Security and Incident Response
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Performance Based Emergency Preparedness Regulatory Regimen

Project Number: 689

Dear Mr. Miller:

SECY-06-0200, "Results of the Review of Emergency Preparedness Regulations and Guidance," recommended a series of changes to the existing regulations and sought Commission approval to begin activities to develop a new voluntary performance-based emergency preparedness regulatory regimen (PBEP) that could serve as an alternative approach to existing EP regulations and guidance.

On March 5, 2008, the staff presented to the NEI Emergency Preparedness Rulemaking Task Force concepts and elements of a PBEP regulatory regimen. The purpose of this public meeting was to explore the conceptual concept and seek stakeholder input.

As discussed, the potential benefits of a PBEP regimen are great. If properly constructed, regulatory oversight would be less involved with licensee processes and instead focus on performance. This regimen would focus on regulatory oversight of licensee's performance competencies during drills and exercises, rather than the current compliance process.

The current deterministic emergency preparedness regulatory regimen provides for reasonable assurance that adequate protective actions can and will be implemented to protect public health and safety in the unlikely event of a severe reactor accident. It has been successfully implemented for many years. Inspection records show that EP programs are largely in compliance and the relatively few issues noted are addressed in a timely manner.

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Based on terrorists' events of September 11, 2001, the industry and the staff are fully engaged in multi-year rulemaking efforts to revise many aspects of the regulations. These include enhancements to 10CFR50.47, 10CFR50.54(q), Part 50 Appendix E, the Emergency Response Data System and the electronic library supporting each site's emergency response plans. In addition, the industry along with our offsite counterparts, NRC and FEMA are engaged in the Hostile Action Based Drill program (NEI 06-04) Phase 3. We are also interacting with the staff to enhance interactions and communications between the industry and the NRC Incident Response office during a hostile attack on a nuclear facility.

While the PBEP regimen has merit, the industry and the staff need to focus its resources on the many regulatory enhancements before us today. Once the regulatory enhancements are finalized and implemented, stronger consideration should be given to a volunteer performance based alternative.

The industry appreciates the efforts of Randy Sullivan and the staff in the development of this well thought out concept.

If you have any questions, please contact me at (202) 739-8110; 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: Mr. Melvyn Leach, NRC
NRC Document Control Desk