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PR 50 and 52
(74FR23253)

Rulemaking Comments

From: George R. Sabo [GRSabo@ashtabulacounty.us]
Sent: Monday, October 05, 2009 9:42 AM
To: Rulemaking Comments
Subject: Comments on Guidance Changes
Attachments: Rulemaking Comments for ORO Review 100109.doc

Dear Sirs,

As the Director of the Ashtabula County EMA which is located in the 10 mile Emergency Planning Zone for the FirstEnergy Perry Nuclear Power Plant I would like to submit comments to you regarding the proposed guidance changes. Please find attached comments and suggestion that were compiled after review of the proposed changes. It is my opinion that the proposed changes will not benefit the preparedness of the offsite response organization nor the planning process that is utilized currently. The changes may significantly increase costs incurred by the ORO in exercising the plans with no positive impact on protecting the public safety and health. Revisions are needed in any guidance document but only when they have added value and can be supported by all participants. Please feel free to contact me if there are any questions or concerns.

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Position and Comments on NRC Rulemaking

NRC Rule Area: Challenging Drills and Exercises

Issue	Position/Comment on the Proposed Rulemaking	Cross Cuts To	Basis / Comment
<p>Draft NRC Interim Staff Guidance (NSIR/DPR-ISG-01) :</p> <p>Exercise Cycle: NRC and FEMA are requiring specific scenario variations to be included in the six year cycle with the addition of hostile action scenario and rapid escalation to SAE or GE at least once every eight years.</p>	<p>The current exercise cycle should be expanded from six years to an eight year cycle to include all scenario variations.</p>	<p>REP Program Manual, NUREG 0654, Supp. 4</p>	<p>Compression of the proposed scenario elements including the hostile action scenario within the existing 6-year exercise cycle is impractical. Tracking of each scenario element in 3 evaluated exercises creates such predictability and inflexibility that contradicts the intent of the rule of providing challenging drills and exercises.</p> <p>Expanding the exercise cycle to eight years is a more effective way to add variability to exercise scenarios as opposed to having numerous requirements in a 3-exercise cycle.</p> <p>For those states that have multiple NPPs within their jurisdiction, the requirement to include HAB events within the respective 6-year cycle defeats the cost effectiveness of the new requirement where the same ORO assets would be required to repeatedly demonstrate the same response within given cycles which unnecessarily over burdens public safety assets.</p>

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<p>Draft NRC Interim Staff Guidance (NSIR/DPR-ISG-01):</p> <p>Exercise HAB Event Extent of Play: NSIR/DPR-ISG-01 page 29 states "Scenarios with no or an unplanned minimal radiological release should not be used in consecutive hostile action-based exercises."</p>	<p>Delete statement, "Scenarios with no or an unplanned minimal radiological release should not be used in consecutive hostile action-based exercises."</p>	<p>ORO Coordination NUREG 0654, Supp. 4</p>	<p>Determination of release or no release and size of release should be left up to the scenario development team and should not be prescribed by the ISG. The purpose of an exercise is to improve performance and having a radiological release during a HAB provides little training value.</p> <p>This is an irrelevant requirement that is counter to the philosophy of the rule change on "Challenging Drills and Exercises" in that it specifies a sequence associated with hostile action based exercises that allows the emergency response organization to anticipate scenario design with respect to radiological releases.</p> <p>The ISG would require that once every other demonstration, a HAB exercise would include a large release.</p> <p>Further, requiring a large release associated with a HAB exercise is neither risk informed or realistic. Exercises are typically designed using design basis events, relevant source terms, and include additional equipment failures not anticipated in design basis events which lead to radioactive releases.</p> <p>Current philosophy exists with the current HAB drill scenarios. Scenarios are designed such that they exceed to DBT, however boundaries exist such as no take back is required in order to secure the plant.</p> <p>HAB exercise scenarios should remain consistent with the extent of play requirements outlined in NEI 06-04.</p>
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Position and Comments on NRC Rulemaking

NRC Rule Area: Licensee Coordination with OROs (also see NUREG 0654- Supp. 4 Comment Matrix, page 6)

Issue	Position/Comment on the Proposed Rulemaking	Cross Cuts To	Basis / Comment
<p>10CFR Part 50, Appendix E, Section IV.A.7, Draft NRC Interim Staff Guidance (NSIR/DPR-ISG-01):</p> <p>The NRC rulemaking contains statements of consideration for Offsite Response Organizations that include:</p> <ul style="list-style-type: none"> • a hostile action based event will place additional and different demands on local law enforcement agencies and fire departments. The rule requires licensees to coordinate with OROs to ensure resources are available. <p>One example,</p> <ul style="list-style-type: none"> • Verification of mutual aid agreements, including rosters, training records, 	<p>The extent of "ORO coordination".</p> <p>The potential impact here is setting public safety agencies up for evaluation of the adequacy of mutual aid resources and the redundancy and potential for conflicts with Annual Letters of Certification submittals. Further, would additional REP training be required of mutual aid outside of the EPZ?</p> <p>Sections of the ISG on page 19 where the paragraph starts off with "ORO should" should be deleted.</p> <p>Sections of the ISG on page 19 and 20 that require the licensee to verify ORO program elements should be modified or deleted,</p>	<p>REP Program Manual, NUREG 0654, Supp. 4, Section III</p>	<p>Based on our evaluation, we see that day-to-day public safety functions could potentially be evaluated under the REP umbrella as well as redundant regulation and evaluation by both FEMA and the NRC.</p> <p>With these statements in the ISG, the NRC is inappropriately directing action by the ORO - a responsibility that belongs to FEMA.</p> <p>Licensees should be allowed to verify the availability of ORO resources in a manner consistent with ORO inter-jurisdictional mutual aid/support protocols that are already implemented for all hazards and law enforcement events.</p>

Position and Comments on NRC Rulemaking

NRC Rule Area: Back Up Means for Alert and Notification

Issue	Position/Comment on the Proposed Rulemaking	Cross Cuts To	Basis / Comment
<p>NRC 10 CFR Part 50, Appendix E, Section IV.D.3, Draft NRC Interim Staff Guidance (NSIR/DPR-ISG-01):</p> <p>Adding a requirement to provide a backup capability to the primary alert and notification systems (ANS)</p>	<p>The Alert and Notification rulemaking area requires each site to identify, in the event of a siren malfunction, a backup method.</p> <p>Some sites already commit to a backup in their plans, route alerting. NRC stated in the public meetings that route alerting implements the rule. Some sites have robust siren systems with independent backup activation and sufficient back up power capabilities. And, according to SECY09-0007, these are acceptable and yet the language in the ISG is creating new requirements that go beyond the rule language.</p> <p>Delete the 45 minute requirement.</p>	<p>REP Program Manual, NUREG 0654, Supp. 4, Section IV</p>	<p>With the proposed language, a robust primary ANS is not being credited by the NRC and may in fact discourage capital or other improvements to primary ANS.</p> <p>The FRN states: "Guidance would be provided for determining the acceptability of the backup methods based on the alerting and <u>notification</u> capabilities of the methods selected, administrative provisions for implementing and maintaining backup methods, identification of resources to implement backup methods, and periodic demonstration of the backup methods." A review of rulemaking documentation does not provide a clear picture of the expectations for backup <u>notification</u>.</p> <p>It appears that NRC is not following the direction of the Executive Branch. The proposed rule does not recognize current directives at the federal level to develop comprehensive emergency alert and notification systems that utilize a wide range of technologies to disseminate alerts and notification messages for diverse conditions and events – missing children, local weather hazards, mass casualty situations. These technologies can be utilized for supplemental nuclear power plant emergency alerting and notification purposes, and would be more effective than single purpose methods developed solely for nuclear power plant emergencies. A case in point is the FEMA Integrated</p>

Position and Comments on NRC Rulemaking

			Public Alert and Warning System (IPAWS). The vision of IPAWS builds and maintains an effective, reliable, integrated, flexible and comprehensive system that enables the public to receive alert and warning information through as many means as possible.
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Position and Comments on NRC Rulemaking

NRC Rule Area: **Evacuation Time Estimate (ETE) Updating**

Issue	Position/Comment on the Proposed Rulemaking	Cross Cuts To	Basis / Comment
<p>NRC 10 CFR Part 50.47(b)(10), Appendix E, Section IV:</p> <p>Require licensees to review and update ETEs periodically and submit to NRC for review and approval. Proposed changes to App. E would provide the required frequency and details of the ETE updates and submissions.</p> <p>Further, NRC has recently concluded that ETE information is important in developing public protective action strategies and should be used to identify improvements to evacuation plans.</p> <p>NRC proposes that population changes of 10% result in updates to the ETE and the updates be completed by 180 days following release of census data.</p>	<p>ETE revision threshold should be presented in guidance not in the Code of Federal Regulation.</p> <p>The threshold should be based on population <i>effect</i>; not just a change in numbers.</p>		<p>Details of the ETE updates and submissions should be provided in guidance documents. Therefore, future changes to the details of the updates would require revision to guidance documents only, and not require rulemaking.</p> <p>The suggested population sensitivity study alternative supports the assessment of the <u>effect</u> of population change on ETE between decennial Censuses on a site-specific basis, rather than a generic criterion (10% population change</p> <p>Several of the new requirements may be based on inaccurate interpretations of traffic control principles.</p> <p>The language in guidance focuses on high density population areas that is not the norm for the majority of the NPP sites and the respective EPZs</p>

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NRC / FEMA Rule Area: NUREG -0654, Supplement 4

<p align="center">NUREG 0654 SUPPLEMENT 4 LANGUAGE/REFERENCE</p>	<p align="center">POSITION/COMMENT</p>	<p align="center">BASIS</p>
<p>II. Integration of National Preparedness Initiatives into ORO Response Plans and Activities, p.4: "The NEP was developed to test collective preparedness, interoperability, and collaboration across all levels of government and the private sector; it incorporates HSEEP as the policy and guidance for exercise design, conduct, and evaluation."</p> <p>Section IV. Challenging Drills and Exercises, p. 8: States that FEMA and the NRC have added new scenario variables, including varied release conditions, non-sequential escalation of emergency action level, and incorporating HAB events."</p>	<p>Section IV Challenging Drills and Exercises and the NRC ISG directly contradict the HSEEP process for exercise development.</p> <p>A more practical approach to accommodating the objective of the rule would be to expand the exercise planning cycle to 8 years.</p>	<p>The HSEEP process focuses on objective development that is based on capabilities and training needs; and is NOT scenario driven. What's being proposed by both the NRC and FEMA is a scenario driven approach to exercises that is not in conformance with HSEEP.</p> <p>NRC and FEMA's prescription for new scenario variables as described here and in the NRC ISG compressed into the 3 evaluated exercises in a planning cycle severely limits the creativity and the quality of scenarios. Further, the tracking of these scenario elements enables them to become very predictable to all exercise participants.</p> <p>Inclusion of HAB events into the current 6-year cycle unnecessarily overburdens OROs particularly in those states where there are multiple NPPs.</p>
<p>III. Planning and Preparedness for HAB Events, p 6., Coordination between Licensees and OROs</p> <p>"However, an HAB event will place increased demands on OROs, who will be expected to implement portions of State and local emergency plans, such as traffic control points, route alerting,</p>	<p>Criterion C.6 should stand alone and delete the associated discussion.</p> <p>NRC stated in 9/17/09 meeting that this is not a new requirement and that if licensees are dependent of OROs to come on site.....[check 9/17 Public Meeting transcript]</p>	<p>HAB events are being single out as the only contingency that could strain ORO resources at the onset of an event at a NPP and assumes insufficient resources available during an HAB event.</p> <p>The proposed implementation of the new criterion does not add value in that if a licensee</p>

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etc., as well as respond to potential hostile activities at the NPP site and potential simultaneous offsite hostile activities. This situation could detract from State and local emergency response if plans have not been revised to address this contingency. OROs should be able to support implementation of emergency plans during a broad range of contingencies, including HAB events. Emergency response plans and procedures should be revised to incorporate these elements. Licensee agreements with OROs (e.g., memoranda of understanding or letters of agreement) should also be updated to reflect the arrangements for HAB events at an NPP site. OROs should work with the licensees to identify solutions that will ensure timely implementation of emergency response plans. For example, an ORO may enter into mutual aid agreements with neighboring jurisdictions and private sector entities, including both for-profit and not-for-profit organizations (sometimes called non-governmental organizations), to identify alternate personnel to supplement local resources. The revised ORO plans and procedures should address required training for the primary and alternate personnel. Radiological training that would be necessary for some functions could be delivered through an online course or in the classroom at a frequency determined in ORO plans and procedures. ORO plans and procedures should also include provisions for just-in-time training updates as the event progresses. Participation in drills and exercises should be encouraged to reinforce and to validate planning. Plans and procedures should also address maintaining additional duty rosters of qualified alternate personnel.”

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The implied implementation of this new requirement is impractical.

The proposed implementation of criterion C.6 would introduce new and significant regulatory burden and associated costs, without any commensurate increase in the ability to protect public health and safety. This criterion, and the associated proposed change to 10 CFR 50, Appendix E, Section IV.A.7, essentially deal with the question of “backfilling” public safety personnel who may be assigned dual response roles – one at the NPP and one supporting the offsite response plan for the NPP. The proposed criterion is problematic on several fronts. Concerning the Augmented ORO (AORO) resources.

- There is no effective way of tracking changes to, or availability of, AORO resources. Public safety agencies are under no obligation to provide resource assessments to either the licensee or the NRC. In fact, many States have laws specifically prohibiting the dissemination of such information. In addition, licensees have no effective means to monitor staffing or personnel changes at AORO agencies.
- Given the infrequent training or drill opportunities, and the natural turnover of personnel, AORO responders will likely have little to no familiarity with offsite response plans and procedures for the NPP. This may, in fact, detract from command and control effectiveness at the time of the emergency.
- AORO resources may have competing demands in their own communities, or in other communities with which they have mutual support agreements, at the time of the

and respective OROs had specific MOUs and other associated attributes specifically designated for a HAB event at a NPP, in the event of attack or other public safety event that occurred prior to, or concurrent with the HAB event at the NPP, the MOUs, etc. are of no value.

ORO plan for contingencies all of the time regardless of whether there is an event at a NPP, a shopping mall, or a school. This new criterion encroaches on arrangements/resources that are planned for as part of routine public safety planning

Public safety agencies already have agreements, pacts, etc. that enable them to get the support and resources when they need them from any available resource. This is what they execute every day for ANY event that consumes first responder resources. This is already a principle of NIMS/ICS, as part of the response capabilities for Incident Command and EOC Management.

Moreover, specific information detailing LLEA resources and capabilities is proprietary to that agency and would not be released/provided to the licensees.

Licensees should be allowed to verify the availability of ORO resources in a manner consistent with ORO inter-jurisdictional mutual aid/support protocols that are already implemented for all hazards and law enforcement events.

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<p>New Evaluation Criterion:</p> <p>C.6 Each organization shall make provision to enable onsite response support from OROs in a hostile action-based incident as needed.</p>	<p>NPP emergency thus precluding their response.</p> <ul style="list-style-type: none"> • In some cases, AORO resources would have to respond (travel) against the flow of evacuees from sectors close-in to the NPP. This will hinder their travel and lengthen response times. • The criterion, as implemented by the NRC through NSIR/DPR-ISG-01, INTERIM STAFF GUIDANCE, EMERGENCY PLANNING FOR NUCLEAR POWER PLANTS, will require NRC inspectors to verify ORO and AORO resources, verify mutual aid agreements (including notification, activation, training, and maintenance of duty rosters), and verify arrangements in ORO plans and/or procedures. This places NRC inspectors in a role of evaluating ORO planning and response capabilities. <p>The existence of "State of Emergency" laws obviates the need for this new criterion. After a governor declares a State of Emergency, virtually all State resources are available for response, on a prioritized basis, to a NPP event. Further, many States have entered into regional public safety agency compacts; these agreements facilitate rapid inter-State sharing of public safety resources. There is no need for the NRC, through the licensee, to drive the generation and maintenance of additional MOUs for AORO resources.</p>	
<p>Section V: Backup Means for Alert and Notification Systems</p>	<p>Same comments on Page 4 of this matrix, in response to: NRC 10 CFR Part 50, Appendix E, Section IV.D.3, Draft NRC Interim Staff Guidance (NSIR/DPR-ISG-01)</p>	

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