

October 14, 2009

**PR 50 and 52
(74FR23253)**

DOCKETED
USNRC

October 15, 2009 (3:20pm)

**Pennsylvania Department of Environmental Protection
Bureau of Radiation Protection Comments on
74 FR 23254, May 18, 2009
Nuclear Regulatory Commission
Enhancements to Emergency Preparedness Regulations -- Proposed Rule**

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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IV. Specific Request for Comments

1. Inclusion of National Incident Management System/Incident Command System into Licensee EP Programs.

Comment: PA BRP supports the inclusion of NIMS and ICS into licensee EP programs. We believe that by having licensees train responders and implement ICS, the interface between offsite response organizations and licensee response organizations will improve.

3. Expanding to non-power reactor licensees a requirement for detailed analyses demonstrating timely performance of emergency response functions by on-shift personnel.

Comment: PA BRP does not favor instituting this requirement. Incidents at power reactors have the potential for large offsite consequences, and the emergency organization for power reactors is extensive and complex. Non-power reactor incidents would result in offsite consequences of much smaller scope than those associated with a power reactor, and the emergency organization for a non-power reactor is consequently much smaller and simpler. PA BRP does not believe instituting this measure would improve in a meaningful way the emergency response organization at non-power reactors.

4. Expanding to non-power reactor licensees a requirement for the capability to assess, classify, and declare an emergency condition within 15 minutes and a requirement to promptly declare an emergency condition.

Comment: PA BRP does favor adding emergency declaration timeliness criteria for non-power reactor licensees. However, given the small source term and limited offsite consequences of releases from a non-power reactor, expanding the requirements and time for power reactor emergency classification and notification to non-power reactors should be reasonable, e.g. 30 to 45 minutes. The damage to the TRIGA reactor building in Kansas due to a tornado in 2008 exemplifies the need for formal local, state, and federal (i.e., NRC) notifications.

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5. Expanding to non-power reactor licensees a requirement for hostile action event EALs.

Comment: PA BRP does not favor adding a requirement for hostile action event EALs to non-power reactors. It is PA BRP's understanding that the offsite consequences for an incident due to hostile action at a non-power reactor would not be materially different from those due to other initiating sequences. While it is true, as stated in the Federal Register, that, "...hostile action directed toward a non-power reactor is an initiating event that conceivably cause an offsite dose.", the offsite consequences of such an event are small in magnitude and limited in scope. We do not see the necessity of instituting this change.

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Part 50, Appendix E, Sections IV.E.8.b and c

Comment: PA BRP supports the codification of distance requirements for EOFs in proposed Section IV.E.8.b, and the establishment of performance-based criteria for EOFs in proposed Section IV.E.8.c.

However, PA BRP does not support the notion that as a result of adding Sections IV.E.8.b and c to NRC regulations, licensees should no longer have to seek NRC approval to locate EOFs beyond 25 miles from the site.

The Federal Register Proposed Rule states:

"By codifying EOF distance requirements in Section IV.E.8.b of Appendix E and providing specific criteria for EOFs in Section IV.E.8.c, the proposed language would obviate the need for licensees to seek NRC approval at either the staff or Commission level to locate an EOF or consolidate EOFs meeting certain performance-based requirements and having provisions for NRC site team and offsite agency responders closer to a site if the EOF is located more than 25 miles from a site."

PA BRP believes strongly that NRC approval should be required to locate an EOF or consolidate EOFs at a distance more than 25 miles from a site. Given the move toward ownership of several nuclear power plants by one utility, and the move away from individual plant EOFs to consolidated EOFs serving several plants, the distance from a site to the EOF can become large. Twenty-five miles is a reasonable upper limit, before additional scrutiny is warranted.

Further, as noted in the Federal Register, no requirement is proposed for licensees to consult with State and Local governments if they intend to locate an EOF more than 25 miles from a site. State and Local governments have an important stake in this decision, and requiring a licensee to obtain NRC approval before making this move allows State and Local governments a guaranteed opportunity to be heard.

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Part 50, Appendix E, Section IV.E.8.d

Comment: PA BRP supports the establishment of alternate facilities as outlined in proposed Section IV.E.8.d. In the event of a hostile action against a site, and the inability to access the site, an alternate facility would fill a necessary and important role. PA BRP believes that alternate facilities should have the capabilities as described in the Federal Register Proposed Rule, and should be exercised periodically in exercises.

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Part 50, Appendix E, Section IV.E.8.e

Comment: PA BRP objects to the proposal in Section IV.E.8.e to exempt a nuclear power plant licensee that, on the day the final rule becomes effective, does not have provisions for a facility closer to the site if the (approved) EOF is located more than 25 miles from a nuclear power reactor site, from the requirements of Section IV.E.8.b.

The Federal Register states in justification of an exemption, "These licensees have already received approval from the Commission for variances from existing requirements (and guidance) regarding EOF locations, backup EOF facilities, or other EOF characteristics." However, since the (proposed) Section IV.E.8.b is new, it was not considered in its entirety by the Commission when variances from existing requirements were granted.

The requirements of Section IV.E.8.b are intended to ensure that emergency facilities (such as EOFs and Backup EOFs) are located an appropriate distance from the site, so that emergency response actions are carried out in a timely manner. In cases where the NRC has given permission to a licensee to locate their EOF more than 25 miles from the site, PA BRP believes that it is important to have a facility closer to the site, where NRC and offsite responders can interact face-to-face with personnel going to and leaving the site for briefings and debriefings. A location closer to the site would facilitate efficient coordination of actions, communication with responders in other onsite and offsite emergency response facilities, and direct interface with responders at the site as needed. A facility closer to the site would allow offsite responders to conduct briefings and debriefings with emergency response personnel entering and leaving the site, communicate with responders at other emergency response facilities, maintain awareness of conditions at the site, and share information with other emergency response organizations. PA BRP supports applying the requirement in (proposed) Section IV.E.8.b that a nuclear power plant licensee provide a facility closer to the site if the EOF is located more than 25 miles from the site to all nuclear power plant sites, including those who previously received an exemption for their EOF location.

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Part 50, Appendix E, Section IV.F.2.j

Comment: Exercises that terminate at an emergency classification less than General Emergency, or have no radiological release, or an unplanned minimal radiological release that does not require public protective actions, could result in a significant number of FEMA evaluation criteria for offsite response organizations not being demonstrated. PA BRP believes that the agreed on exercise scenario, developed in accordance with the emergency preparedness program changes (with the goals of avoiding preconditioning and negative training), should determine the actual evaluation criteria to be used for exercises for offsite response organizations.

PA BRP objects to the imposition of an 8 year cycle for some demonstrations (such as hostile action based exercises). The Radiological Emergency Preparedness Program (REP Program) has operated up to now on a 6 year cycle. PA BRP believes that adding an 8 year cycle to the 6 year cycle will cause confusion and difficulty in exercise scheduling.

Finally, PA BRP believes that more guidance needs to be provided in regards to the implementation of scheduling of the additional requirements set out in this section, for states with multiple reactor sites.

Rulemaking Comments

From: Gallagher, Carol
Sent: Thursday, October 15, 2009 2:01 PM
To: Rulemaking Comments
Subject: Comment on Enhancements to Emergency Preparedness Regulations
Attachments: NRC-2008-0122-DRAFT-0065[1].1.pdf

Van,

Attached for docketing is a comment on the above noted proposed rule (74 FR 23253) from David Allard that I received via regulations.gov on 10/15/09.

Thanks,
Carol

Received: from HQCLSTR01.nrc.gov ([148.184.44.79]) by OWMS01.nrc.gov
([148.184.100.43]) with mapi; Thu, 15 Oct 2009 14:01:54 -0400
Content-Type: application/ms-tnef; name="winmail.dat"
Content-Transfer-Encoding: binary
From: "Gallagher, Carol" <Carol.Gallagher@nrc.gov>
To: Rulemaking Comments <Rulemaking.Comments@nrc.gov>
Date: Thu, 15 Oct 2009 14:01:28 -0400
Subject: Comment on Enhancements to Emergency Preparedness Regulations
Thread-Topic: Comment on Enhancements to Emergency Preparedness Regulations
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