

Rulemaking Comments

From: Tailleart, Don
Sent: Monday, October 19, 2009 4:17 PM
To: Rulemaking Comments
Cc: 'jon.schwarz@nebraska.gov'; Quinones, Lauren
Subject: FW: Submission of Comments on "Staff Guidance".and NUREG 0654/REP-1
Attachments: NRC Staff Guid Draft Comments.doc; NUREG-0654 REP-1.Supp4 Comments.doc

I am forwarding the attached comments on behalf of Mr. Schwarz, Nebraska Emergency Management Agency, for docketing under NRC Docket No. NRC-2008-0122. The comment deadline is today, October 19th. Please send Mr. Schwarz a confirmation once the comments have been docketed. I am also forwarding these comments in a separate email to FEMA for posting on the related FEMA docket (FEMA-2008-0022).

Don Tailleart

**DOCKETED
USNRC**

Regulatory Improvements Team Leader
Inspection and Regulatory Improvements Branch
Division of Preparedness and Response
Office of Nuclear Security and Incident Response
US Nuclear Regulatory Commission
301-415-2966

October 20, 2009 (10:50am)

**OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF**

From: Schwarz, Jon [mailto:jon.schwarz@nebraska.gov]
Sent: Monday, October 19, 2009 12:57 PM
To: Tailleart, Don
Subject: Submission of Comments on "Staff Guidance" and NUREG 0654/REP-1

Mr. Tailleart,

For some reason, I have been unable to upload my comments on "Regulations.Gov" and wanted to get them in before the end of the day.

So please ensure these get where they need to go.

Thank you.

Jon

**Jonathan (Jon) F. Schwarz
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NSIR/DPR-ISG-01
INTERIM STAFF GUIDANCE
EMERGENCY PLANNING FOR NUCLEAR POWER PLANTS

Page	Para-graph	Comments & Recommendations
	Document	<p>It appears that when soliciting information from stakeholders at regional meetings, etc., all comments and recommendations were disregarded. Examples include the fact that in reality, responses to Hostile Action Based Events is no different than dealing with a natural disaster and a nuclear power station incident at the same time; that while some exercise elements are predictable due to the objectives required by NRC and FEMA to be met, there has always been the element of unpredictability as well with scenario injects and human decision-making or human errors; That exercises did not always escalate through the classification levels but start at SAE, etc., to name a couple of the discussion items.</p>
	Document	<p>In several areas, this document uses the recent DHS Comprehensive Reviews as a source and reason for new regulation. The States, prior to attending those Comprehensive Reviews were assured that the only reason for the reviews was to review overall emergency response with regards to security and provide grant funding to shore up any weaknesses found. It is obvious from this document that the Federal Government once again has misled the State and Local Agencies and that any future requests for cooperation in such reviews will be hard to come by.</p>
	Document	<p>States and locals presently plan, train and exercise as best they can to ensure they can successfully respond to a nuclear power station incident/accident. If the NRC implements these new regulations, states and locals will be planning and training just to successfully pass exercises, as these regulations are not reality based performance measures.</p>
17-20	IV.E	<ol style="list-style-type: none"> 1. Does not this requirement conflict with FEMA's responsibility to ensure reasonable assurance that state and locals can protect the health and safety of the public? 2. This requirement implies that NRC would have the authority to become involved with off-site planning and response. It also could end with the state and locals as well as the licensee being caught between FEMA and NRC disputes. 3. Please explain how a Hostile Action Based Event (HABE) differs from a natural disaster (such as a tornado or flash flood wiping out an adjacent town or city while at the same time) causing a nuclear power station emergency. They both disrupt emergency planning, including radiological and they both will result in the competition and demand for the same limited resources. That's why they're called emergencies and disasters. There is no need for additional regulation here.
25	IV.G	<ol style="list-style-type: none"> 1. The reason there are predictable elements to the exercise is that there are required NRC/FEMA objectives to be met by the ERO and OROs. 2. Recommended PARs may also be made based on meteorological conditions in addition to plant conditions. The policy of NE is to evacuate prior to a release so the assessment of nuclear power station conditions is more critical than an assessment of radiological conditions initially. 3. Exercises in NE with Cooper and Fort Calhoun Nuclear Power Stations have included natural disasters and have not always escalated through the ECLs. In fact the State and locals never know when they will or will not escalate through the ECLs as the Control Room Manager or EOF Director has in the past decided, based on scenario elements, that the nuclear power station needs to be at a higher ECL than what the exercise scenario calls for at a specific time, which results in skipping or starting at a higher ECL.

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25	IV.G	4. Exercises should be designed to allow enough time to adequately test the plan and work the plan. They should not be designed to ensure failure as NRC seems to want to do.
26	IV.G	<p>1. Why is HSEEP being brought up in this section at this time when the new HSEEP guidance has yet to be published?</p> <p>2. To ensure everyone is on the same sheet and mutually understands the needs of the others, the statement "A reference to the standardized methodology of the Homeland Security Exercise Evaluation Program (HSEEP) would be added [to NUREG 0665, Evaluation Criteria N.1.a] which would apply to State and local organizations only." is unacceptable! NIMS is all encompassing and thus not only should the states and locals be involved, but the nuclear power stations and all FEDERAL AGENCIES as well in this process.</p>
27	IV.G	<p>1. The change to Evaluation Criteria N.1.a "Exercises shall be conducted as set forth in NRC and FEMA rules as well as in accordance with the standardized methodology of the Homeland Security Exercise Evaluation Program (HSEEP)." is also unacceptable. Nebraska exercises under HSEEP per Presidential Directive, and is glad that NRC/FEMA is moving in this direction, but should this move be made, there cannot be exceptions to HSEEP and NRC/FEMA should move to change current REP regulations with other exercise requirements.</p> <p>2. The change to Evaluation Criteria N.1.b "... The scenario shall be varied such that the major elements of the plans and preparedness organizations are tested within a six-year exercise planning cycle...". HSEEP requires a 5-year planning cycle, not six. Until DHS changes the HSEEP requirements, this NRC/FEMA requirement is unacceptable.</p> <p>3. The change to Evaluation Criteria N.1.b "... The scenario variations shall include, but not be limited to, the following: An initial classification of or rapid escalation to a Site Area Emergency or General Emergency..." Commonly called the "Fast Breaker"(and rejected years ago) does nothing, exercise wise, except make people scramble around as normally happens initially in any disaster. The most that can be done in this circumstance is notify people to stay tuned if the ECL is a SAE and have people stay in their homes at GE until the State and locals can figure out what happened and if the evacuation routes are open; then the exercise reverts to a normal REP exercise. Nebraska finds this requirement unacceptable.</p> <p>4. What does NRC/FEMA mean by including as a scenario variation bullet "Implementation of strategies, procedures, and guidance developed under 10 CFR 50.54(h)...?"</p> <p>5. The "Hostile action directed against the plant site" and "An Initial classification of or rapid escalation to a Site Area Emergency or General Emergency" scenario variations are listed in the five-year cycle. Then NRC mentions that the following scenarios shall occur at least once every eight years and mentions the same scenario variations a second time. This is confusing. First NRC wants them once every 6 years (6-year cycle), then says they have to be conducted at least every eight years. While NE has an idea what NRC is requiring, this needs to be clarified if these variations survive scrutiny and the regulation review process.</p> <p>6. As "Hostile action directed against the plant site" is one scenario variation bullet, why does NRC basically repeat itself by adding another scenario variation bullet entitled, "Integration of offsite resources with onsite response" which is basically a hostile action based event scenario?</p>

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27	IV.G	7. Concerning the last entry: Once again, HSEEP presently requires a 5 year planning cycle which States and locals that are federally compliant, follow. Thus the 6-year cycle needs to be reduced or this part of the regulation be eliminated.
28	IV.G	The NRC addition of Evaluation Criterion N.1.c "Provisions must be made to start a drill or exercise between 6:00 p.m. and 4:00 a.m. once in every six-year exercise planning cycle. Drills or exercises should be conducted under various weather conditions. Some drills or exercises should be unannounced." appears to be a "back-door" inroad into FEMA's area of responsibility and way to mandate the States and Locals once again conduct such exercises. FEMA in cooperation with their state and local stakeholders determined that because State and Local jurisdictions respond to real emergencies that are both unannounced and which occur during off-hours, there was no need or requirement for offsite organizations to participate in off-hours or unannounced evaluated exercises. NRC/FEMA should not try and re-invent the wheel and in a most underhanded manner re-institute such measures as listed in N.1.c. Who is NRC trying to fool here by stating that N.1.c would only be applicable to the licensee? The FEMA evaluated exercises are held at the same time as the Nuclear Power Station exercises. Thus, NRC would in fact be requiring state and local OROs to participate in off-hours and unannounced exercises! Such exercises would cost a lot more money in overtime expenses and such expenses would have to be budgeted for, thus it would be known that such an exercise is going to happen during the upcoming fiscal year. In addition, State and locals jurisdictions do participate in nuclear power station drills and exercises to maintain proficiency and to assist the nuclear power stations in practicing interaction with their State and local partners. To require off-hours and unannounced exercises and drills would also require the States and locals to participate at these times.
29	IV.G	<p>1. Concerning the list of a wide spectrum of scenario elements, NE once again wants to stress that the element dealing with "Response to a scenario that begins with a Site Area Emergency or General Emergency, or escalates rapidly (within 30 minutes) to a SAE or GE is unacceptable.</p> <p>2. Concerning the list of a wide spectrum of scenario elements again. The 9th bullet states "Real-time staffing of facilities during off-hours (i.e., 6:00 p.m. to 4:00 a.m.) (need not be performed in an exercise) does not comply with the proposed change to Evaluation Criteria N.1.c listed at the top of page 28.</p>
46	IV.J	The proposed change to NUREG-0654, Appendix 3, Section B.2.d "Utility operators shall identify and develop, in conjunction with State and local officials, both the administrative and physical means for a backup public alert and notification system capable of covering essentially 100% of the population within the entire plume exposure EPZ in the event the primary method is unavailable. The backup means of alert and notification shall be conducted within a reasonable time." is not specific enough. It is too broad and could require the mandatory inclusion of any present or new technological widget at the whim of the NRC. Unless this requirement is limited and its meaning defined more specifically, NE would find this unacceptable.
46	IV.J	NRC first states "Assurance of continued notification capability <u>may</u> be verified on a statistical basis." In the very next sentence NRC states "Every year, or in conjunction with an exercise of the facility, FEMA, in cooperation with the utility operator, and/or State and local governments <u>will</u> take a statistical sample of the residents of all areas within about 10 miles to assess the public's ability to hear or receive the alerting signal and their awareness of the meaning of the prompt notification message as well as the availability of information on what to do in an emergency. NE is just wondering what is really the intent here? "May" verify or "Will" verify?



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