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Sent: Monday, October 19, 2009 5:38 PM
To: Rulemaking Comments
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Subject: Comments for Docket ID NRC-2008-0122
Attachments: NRC 10CFR CalEMA Comments Final.doc

Attached are comments provided for Elaine Jennings, Director, Planning and Preparedness Division, California Emergency Management Agency: comments for Docket ID NRC-2008-0122, Enhancement to Emergency Preparedness Regulations. The comments are provided in a matrix organized by section title and page.

Please call or email to confirm receipt of the attached comments.

(See attached file: NRC 10CFR CalEMA Comments Final.doc)

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RULEMAKINGS AND
ADJUDICATIONS STAFF

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NRC 10 CFR Parts 50 and 52 Enhancements to Emergency Preparedness Regulations;
Proposed Rule, May 18, 2009
Cal EMA Comments

PROPOSED RULE REFERENCE	COMMENTS	EXPLANATION
Federal Register/Vol. 74, No. 94/Monday, May 18 2009/Proposed Rule	All comments in this document will reference this rule document.	
Section IV. 3. Expanding to non-power reactor licensees a requirement for detailed analyses demonstrating timely performance of emergency response functions by on-shift personnel.	There is no evidence that the design basis of the non-power reactors will allow in an emergency the consequences that require such action. No discussion was presented with the request for comment.	Provide analysis of the need for such activity through design basis analysis. We will reserve further comment on the issue until the issue is properly explored and examined.
Section IV. 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.	Please refer to the comments to Section IV. 3.	
Section IV. 5. Expanding to non-power reactor licensees a requirement for hostile action event EALs.	Please refer to the comments to Section IV. 3.	
Section V. Section 50.47 Emergency Plans, The NRC is proposing to amend § 50.47(b)(10) to require licensees to review and update their ETEs periodically and submit them to the NRC for review and approval. Proposed changes to Appendix E to Part 50 would provide the required frequency and details of the ETE updates and submissions. AND	Discussion for this change is based on a 10% change in population to initiate a new ETE study. Utilities are currently performing the required ETE studies based on census and need. Subsequent proposals to Appendix E to parts 50 and 52 require an annual review based on	Recommend applying clarifying language into existing guidance and not into a new rule. With the Licensees currently performing at or near the proposed change, guidance must address expanding and contracting populations and their effect on ETEs.

The NRC is proposing to amend several paragraphs within Section IV. Of Appendix E to Part 50 that would apply to licensees and applicants for licenses under Part 50 or Part 52 of this chapter, as applicable. The NRC would amend the first paragraph of Section IV. By adding language to require nuclear power reactor licensees and license applicants to revise their ETEs when the decennial census data is available. The proposed regulation would require that within 180 days of the issuance of the 2010 decennial census data (expected to be available in 2011), ETE revisions be submitted to the NRC under § 50.4 for review and approval. The NRC would establish a schedule for review and approval of the updated ETEs. Thereafter, nuclear power reactor licensees and license applicants would be required to annually review changes in the population of their EPZ and most populous Emergency Response Planning Area (ERPA).	populations.	ETEs should be based on the impact to evacuation times a population change has and not on a numerical change in population. This is supported by the subsequently suggested Population Sensitivity Study alternative within the proposed rule. The discussion in the proposed change also indicates that this change will affect the OROs and require the protective action recommendation and decision basis be changed.
Section V, Appendix E to Part 50, Emergency Planning and Preparedness for Production and Utilization Facilities. The NRC is proposing to amend Part 50, Appendix E, Section IV.A.7. to require licensees to confirm that ORO resources, such as local law enforcement, firefighting, and medical services, are available to respond to an emergency, including a hostile action event, at the plant site. Currently, the regulations do not explicitly require the licensee to take action to ensure that OROs are capable of adequately responding to the site during a hostile action event. This new requirement would require licensee coordination with the OROs to ensure that licensees and OROs are able to effectively implement their pre-planned actions for any contingency, including hostile action events as required by Order EA–02–026. This	As stated the NRC and Licensee assume an oversight activity on ORO assets. No explanation or definition of "adequately responding" is included.	The NRC is proposal is already accomplished by the licensee and OROs in their traditional roles and agreements. Recommend deleting this additional requirement. If this proposal is to be implemented, recommend this proposal be written to indicate the NRC and Licensee have no oversight of ORO assets.

requirement would be enforced through routine inspection and observation of emergency exercises.		
Section V. The NRC is proposing to add language to Section IV.D.3. of Appendix E to require licensees and applicants to have backup ANS methods for both the alert and notification functions without specifying which backup measures should be used. This approach would allow flexibility in the selection of the method best suited for each site and would also allow the use of newer technologies or other alternative methods. Available backup ANS methods would enhance the public's ability to be promptly alerted of an event at a facility and of possible protective actions.	The proposal is too vague and does not conform with the guidelines discussed in SECY09-0007.	The NRC discussed in SECY09-0007 the need for a robust primary ANS and the suggested need of a backup system. Battery backup was deemed adequate however the proposal does not stay within those discussions and adds new requirements. The way the proposal is written may have a negative impact on existing primary ANS. The effort to develop a robust backup may detract from the primary's continued improvement and care.
Section V, inclusive for Challenging drills and Exercises	The many changes and additions to deal with the issue of challenging drills and exercises may require a different schedule than the current six year cycle. Suggest moving to an eight year schedule from six to more adequately address the many new requirements of the proposals.	The current six year cycle will not be adequate to fully exercise and drill with the new proposed drill and exercise components. An eight year cycle will allow adequate time for each ORO and licensee to demonstrate all the required demonstration areas outlined in the proposal

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