

October 23, 2009

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Mr. Michael T. Lesar, Chief
Rulemaking and Directives Branch (RDB)
Division of Administrative Services
Office of Administration
Mail Stop TWB-05-B01M
U.S. Nuclear Regulatory Commission
Attn: Rulemakings and Adjudications Staff
Washington, DC 20555-0001

Subject: Comments on Proposed Regulatory Issue Summary (RIS) 2005-02, Revision 1, "Clarifying the Process for Making Emergency Plan Changes," (Federal Register Notice 74FR42699, dated August 24, 2009)

This letter is being submitted in response to the U.S. Nuclear Regulatory Commission (NRC) request for comments concerning proposed Regulatory Issue Summary (RIS) 2005-02, Revision 1, "Clarifying the Process for Making Emergency Plan Changes," which was published in the Federal Register on August 24, 2009 (i.e., 74FR42699).

This proposed RIS is intended to inform licensees that emergency plan changes that require prior NRC approval, in accordance with 10 CFR 50.54(q), will need to be submitted as license amendment requests in accordance with 10 CFR 50.90, "Application for amendment of license, construction permit, or early site permit." In addition, this revision will: 1) clarify the meaning of "decrease in effectiveness," as stated in 10 CFR 50.54(q); 2) clarify the process for evaluating proposed changes to emergency plans; 3) provide a method for evaluating proposed changes to emergency plans; 4) provide clarifying guidance on the appropriate content and format of applications submitted to the NRC for approval prior to implementation; and 5) clarify what constitutes a report of emergency plan changes to be submitted to the NRC in accordance with 10 CFR 50.54(q).

Exelon Generation Company, LLC (Exelon) appreciates the opportunity to comment on this proposed generic communication and offers the following comments for consideration by the NRC.

General Comments

The proposed RIS discusses legal, regulatory, and licensing issues that also are the subject of ongoing NRC rulemaking efforts intended to amend emergency preparedness regulations and related guidance. Exelon understands that the guidance in the proposed RIS would direct licensees to amend their operating licenses for changes that result in a "decrease in effectiveness" of their emergency plan. The NRC currently prescribes a change process for evaluating emergency plan changes under 10 CFR 50.54(q) that does not require the submittal of a license amendment request. Exelon does not believe that the approach discussed in the proposed RIS is consistent with NRC regulations, existing guidance, and licensing precedence. Exelon is of the opinion that the proposed RIS imposes a new NRC regulatory position on the emergency plan

SUVSI Review Complete
Complete = ADM-013

E-RIDS = ADM-03
Add = D. Johnson (d953)

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changes process while the process is the subject of ongoing emergency preparedness rulemaking activities. Therefore, Exelon recommends that the NRC not issue this proposed RIS until the completion of the EP rulemaking efforts.

In addition, Exelon fully supports the comments submitted by the Nuclear Energy Institute (NEI) on behalf of the industry in its letter dated October 23, 2009.

If you have any questions or require additional information, please do not hesitate to contact me at (610) 765-5525.

Respectfully,



D. P. Helker
Manager - Licensing