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Comment on FR Doc # 2010-07390

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General Comment

Nuclear Energy Industry Comments on DG-2004, EP for RTR (Please see attached file).

Attachments

NRC-2010-0144-DRAFT-0002.1: Comment on FR Doc # 2010-07390

SONSI Review Complete
Template = ADM-013

ERIDS = ADM-03
Call = R.A. Jervy (RAJ)
M. Case (MSC)



NUCLEAR ENERGY INSTITUTE

Susan Perkins-Grew
DIRECTOR
EMERGENCY PREPAREDNESS
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May 27, 2010

Mr. Michael T. Lesar
Chief, Rulemaking and Directives Branch
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Industry Comments on DG-2004, "Emergency Planning for Research and Test Reactors,"
Federal Register (FR Vol. 75, No. 62), Docket ID NRC-2010-0144

Project Number: 689

Dear Mr. Lesar:

On behalf of the non-power reactor industry, the Nuclear Energy Institute (NEI)¹ submits the following general comment on Draft Regulatory Guide DG-2004 entitled, "Emergency Planning for Research and Test Reactors" published in the *Federal Register (FR Vol. 75, No. 62)* for public comment on April 1, 2010. We trust you will find this comment useful as you work to finalize the guidance and look forward to receiving a response to the issue raised below.

Based on a review of the draft guide, we are concerned with the regulatory process that the U.S. Nuclear Regulatory Commission (NRC) appears to be using to impose certain notification requirements that are not currently required by the rule or site-specific license conditions. Specifically, the draft guide states that licensees should promptly notify NRC Headquarters' Operations Center of events classified under Table 1 of the standard, and that licensees should consider implementing a notification process that would result in one-hour notifications to NRC after

¹ NEI is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

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it declares one of the emergency classes. This proposed clarification to ANSI/ANS 15.16 2008 presented in DG-2004 is not consistent with licensee technical specifications that allow the NRC notification to take place up to 24-hours following a declared emergency event.

While the industry firmly supports the need for comprehensive and effective emergency response plans and hostile action-based requirements that include prompt notification to NRC under certain scenarios, we firmly believe that such new notification "requirements" must be subject to the rulemaking process required by the Administrative Procedures Act (APA) and not introduced in a draft guide. As you are aware, the APA requires that proposed notification requirements be justified from a safety basis, subjected to a public review and comment period and codified in the rule. In contrast, the guidance development process is not subject to the APA and, as such, is less rigorous and not appropriate for imposing new notification requirements. Industry would participate in any such NRC rulemaking process and we look forward to such an opportunity should it arise.

In summary, NEI recommends that clarification 3, "The licensee should promptly notify the NRC Headquarters operations center of events classified under Table 1 of the Standard..." on page 3 be removed.

Thank you for the opportunity to comment on the Draft Regulatory Guide DG-2004 and we look forward to a response to the generic process concern raised in this letter. If you have any questions, please feel free to contact me at (202) 739-8016; spg@nei.org.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan Perkins-Grew".

Susan Perkins-Grew