

Emergency Preparedness Program Frequently Asked Question (EPFAQ) Process

REVISION: 1

EFFECTIVE DATE: October 01, 2012



Office Instruction No.: EP-100

Office Instruction Title: Emergency Preparedness Program Frequently Asked Question (EPFAQ) Process

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ADAMS Accession No.: ML12201A946

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1.0 PURPOSE

To provide an effective and transparent process by which the Office of Nuclear Security and Incident Response (NSIR) staff will review and resolve proposed "Frequently Asked Questions" related to Emergency Preparedness Program guidance documents.

2.0 APPLICABILITY

The provisions of this procedure apply to all NSIR staff that will support the assessment and resolution of emergency preparedness frequently asked questions (EPFAQs). This procedure is not to be used to clarify or interpret regulations (refer to 10 CFR 50.3).

3.0 OBJECTIVE

The objective of this procedure is to ensure the consistent implementation of the EPFAQ process.

4.0 BACKGROUND

NSIR has developed this procedure to ensure a consistent regulatory process for the staff to use when processing EPFAQ's. The EPFAQ process has been established to enable licensees, U.S. Nuclear Regulatory Commission (NRC) staff, and interested stakeholders to obtain answers to generic questions about guidance documents related to the development and maintenance of emergency preparedness program elements.

5.0 BASIC REQUIREMENTS

5.1 EPFAQ Submittal

Interested stakeholders, including the public, may submit questions to the NRC EPFAQ Coordinator through directions given on the NRC Emergency Preparedness homepage.

The NRC expects the Nuclear Energy Institute (NEI) EPFAQ Coordinator to coordinate the identification, development, and initial screening of EPFAQs from NEI's Industry members to ensure that any EPFAQ submitted by NEI to the NRC: (1) meets the criteria specified in Section 5.2 of this document, and (2) provides sufficient detail for the NRC staff review and resolution.

Emergency Preparedness Program Frequently Asked Question (EPFAQ) Process

REVISION: 1

EFFECTIVE DATE: October 01, 2012

NRC staff may submit EPFAQs directly to the NRC EPFAQ Coordinator.

5.2 EPFAQ Screening

Using the criteria in this procedure, the NRC EPFAQ Coordinator will perform an initial screening of the proposed EPFAQ.

An EPFAQ should be a question addressing issues where the regulatory guidance may not be sufficiently clear, or where consistency in application would benefit both the NRC and licensees. To be considered as an EPFAQ, the initiator should apply the following criteria:

- The question must be sufficiently generic (e.g., Does it affect more than one licensee or plant without consideration or evaluation of site-specific information?)
- The question does not involve unresolved inspection issues, enforcement actions, allegations, or other situations covered by existing regulatory processes.
- The question does not involve classified, safeguards, or official use only information.
- The question does not request interpretation of NRC regulations, clarification of guidance not yet published as final, or NEI/Industry documents submitted but not endorsed by the NRC.
- The question does not request clarification of on-going licensing activities or issues processed by the licensee in accordance with 10 CFR 50.54(q) or Appendix E to 10 CFR Part 50.
- The question does not pertain to the EP Performance Indicators, Baseline EP Inspection Procedures, or Appendix Manual Chapter 0609 (EP Significance Determination Process).

If an EPFAQ does not meet the criteria or contain sufficient information, then the EPFAQ should be rejected.

If the EPFAQ involves an NEI document endorsed by the NRC, and the EPFAQ is not originated by NEI, then the NRC may, at the discretion of NRC staff forward the EPFAQ by public letter to the NEI FAQ Coordinator. Forwarding the EPFAQ to the NEI EPFAQ Coordinator is not required for final NRC disposition of the EPFAQ, but allows NEI an opportunity to provide its interpretation of their guidance document as it relates to the EPFAQ. This information may help the

Emergency Preparedness Program Frequently Asked Question (EPFAQ) Process

REVISION: 1

EFFECTIVE DATE: October 01, 2012

NRC staff develop its draft resolution of the EPFAQ. A 30 day period should normally be provided for NEI to respond.

The NRC EPFAQ Coordinator should provide to the originator a response documenting acceptance or rejection of a submitted EPFAQ. An email to the originator may be used for this purpose.

The NRC EPFAQ Coordinator will also enter all submitted EPFAQs (both accepted and rejected) and all revisions to the publicly available Agency-wide Document Access and Management System (ADAMS). The NRC EPFAQ Coordinator may use his or her judgment in summarizing an issue prior to posting on the EPFAQ website. The NRC EPFAQ Coordinator will request that the NSIR Information Technology (IT) Coordinator update the "Submitted EPFAQ Status" section of the public website to include the new EPFAQ and its status (e.g., Accepted or Rejected).

5.3 EPFAQ Resolution Process

Refer to Attachment 1, "EPFAQ Process Flowchart," for an overview of this process.

The NRC EPFAQ Coordinator will coordinate the review of the EPFAQ and proposed resolution (if provided) with appropriate NRC staff members. If further clarification is needed for the staff to fully understand the question and/or proposed resolution, then a public meeting may be held (see Section 5.4). For all EPFAQs, the staff will develop a tentative (draft) resolution and provide it to the Office of the General Counsel (OGC) for a review for no legal objection (NLO), and then appropriate NSIR management for concurrence. The minimum concurrence for a draft EPFAQ response shall be the Deputy Director for Emergency Preparedness, Division of Preparedness and Response (NSIR/DPR).

The NRC EPFAQ Coordinator should provide the Regional Emergency Preparedness Branch Chiefs an opportunity to review the EPFAQ and draft response prior to posting for public comment. The NRC EPFAQ Coordinator should also consult with the Federal Emergency Management Agency (FEMA) and the NRC's Office of Federal and State Materials and Environmental Management Programs (FSME) on EPFAQs received from State and local governments or federally recognized Indian tribes and draft responses to those EPFAQs. Comments related to offsite preparedness that do not meet the screening criteria for acceptance in Section 5.2 should be forwarded to FEMA.

Emergency Preparedness Program Frequently Asked Question (EPFAQ) Process

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Once concurrence is obtained, a notice of availability and opportunity for public comments should be published in the *Federal Register* for a 30-day comment period.

- The NRC Notices website provides assistance for writing *Federal Register* notices:
 - <http://www.internal.nrc.gov/ADM/DAS/cag/notices/index.html>.
- A “General Notice” checklist for “Non-rulemaking or General Notices” is available at:
 - <http://www.internal.nrc.gov/ADM/DAS/cag/RM01/procedures/admcheck.html>

The NRC EPFAQ Coordinator should provide the following documents to the Branch Chief of the Rules, Announcements, and Directives Branch, Office of Administration: (1) a cover letter, (2) a *Federal Register* notice, and (3) a checklist for “ADAMS Inventory of Publicly Available Documents.”

- A template of the cover letter is located at the “Notice Templates” section of the NRC Notices website under “Other Templates”:
 - <http://www.internal.nrc.gov/ADM/DAS/cag/notices/ntemps.html>
- A template for a *Federal Register* “General Notice with Request for Public Comment” can be accessed in ADAMS (ML110550818).
- A checklist for “ADAMS Inventory of Publicly Available Documents” is available in ADAMS (ML110420082).

Once the notice is posted on Regulations.gov, the NRC EPFAQ Coordinator should send an email to the NSIR IT Coordinator requesting that the public webpage be updated. Specifically, the status of the EPFAQ under “Submitted EPFAQ Status” should be updated to read “Available for public comment,” and the Docket ID number should be hyperlinked to the proper webpage in Regulations.gov. The NSIR IT Coordinator will forward the changes to Webworks for posting on the EP website.

Following the 30-day comment period, the NRC staff will review and disposition comments, if any. The NRC EPFAQ Coordinator will consult with the FEMA and FSME on comments received from State and local governments or federally recognized Indian tribes.

Emergency Preparedness Program Frequently Asked Question (EPFAQ) Process

REVISION: 1

EFFECTIVE DATE: October 01, 2012

If there are no comments, the NRC EPFAQ Coordinator is responsible for preparing a "Final Resolution" memorandum for the Branch Chief of the Operating Reactor Licensing and Outreach Branch, Division of Preparedness and Response (DPR/ORLOB) that will be addressed to the Deputy Director for Emergency Preparedness, NSIR/DPR. The final EPFAQ should be attached to the memo as an enclosure. The memo and enclosure should be entered into ADAMS (as publicly available). Once the memo and enclosure are publicly available in ADAMS, the NRC EPFAQ Coordinator will provide any changes that need to be made to the public website to the NSIR IT Coordinator via email. The NSIR IT Coordinator will forward the changes to Webworks for posting on the EP website.

If there are comments on the draft resolution, the NRC staff will review the comments and determine if a public meeting is warranted to discuss the comments. After reviewing comments and holding a public meeting (if necessary), NRC staff will revise the draft resolution as appropriate. Disposition of comments and revisions to EPFAQ draft resolutions will be submitted to OGC for its NLO review, and then NSIR management for concurrence. If there are significant changes as a result of the public meeting or public comments received, then the EPFAQ draft resolution should be submitted to the *Federal Register* for another 30-day comment period. The need for subsequent comment periods will be at the discretion of the DDEP. If there are no significant changes made to the EPFAQ as a result of the public meeting or public comments, then the NRC EPFAQ Coordinator will document final resolution to any public comments received as described above.

5.4 Public Meeting Discussion of EPFAQs

NRC staff may hold a Category 2 public meeting to clarify a specific EPFAQ, obtain further insights into a proposed resolution, or to discuss public comments made in response to an EPFAQ. Public meetings will not be used to negotiate differences between NRC staff and interested party positions on any particular EPFAQ. The NRC EPFAQ Coordinator will serve as the meeting chairperson, and will be responsible for scheduling and coordinating public meetings in accordance with Management Directive 3.5, "Attendance at NRC Staff-Sponsored Meetings."

Attendance at the public meeting will, at a minimum, include: (1) the NRC EPFAQ Coordinator, (2) the applicable NSIR Branch Chief, or designated alternate, and (3) an NEI representative. Notice of the scheduled public meeting should be provided to:

Emergency Preparedness Program Frequently Asked Question (EPFAQ) Process

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- OGC,
- Experts in applicable guidance document(s), and
- Licensees or parties involved in the submittal of an EPFAQ

5.5 Publication of EPFAQs

The EPFAQ website, <http://www.nrc.gov/about-nrc/emerg-preparedness/faq/faq-contactus.html>, will display all EPFAQs, including the final disposition of the EPFAQs. This page will be maintained by the NRC EPFAQ Coordinator (or a designee) and updated with each new question or resolution.

5.6 Reconsideration Process

If the EPFAQ originator (non-NRC staff) still has concerns after the staff's "Final" resolution is posted on the NRC EP website, a request for reconsideration should be submitted in writing to the NSIR/DPR Division Director, who will make the final determination.

6.0 RESPONSIBILITIES AND AUTHORITIES

- 6.1 Deputy Director for Emergency Preparedness, Division of Preparedness and Response (NSIR/DPR): Responsible for concurring on all EPFAQ's.
- 6.2 Chief, Operating Reactor Licensing and Outreach Branch (DPR/ORLOB): Responsible for the implementation of the EPFAQ process, this procedure, and all revisions to them. Responsibilities for this may be delegated.
- 6.3 NRC EPFAQ Coordinator: Responsible for coordinating the review of the EPFAQ and proposed resolution. The NRC EPFAQ Coordinator should refer to the "Required Actions Checklist" in the EPFAQ Share Point folder to ensure that all the necessary steps are followed. Additionally, the NRC EPFAQ Coordinator is responsible for submitting a notice to the *Federal Register* for public comment. Lastly, the NRC EPFAQ Coordinator will serve as the meeting chairperson, and will be responsible for scheduling and coordinating public meetings in accordance with the NRC Public Meeting Policy.
- 6.4 NEI EPFAQ Coordinator: Responsible for coordinating the identification, development, and initial screening of EPFAQs with NEI's Industry members.

Emergency Preparedness Program Frequently Asked Question (EPFAQ) Process

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- 6.5 NSIR IT Coordinator: Responsible for updating the public EPFAQ website when requested by the NRC EPFAQ Coordinator.
- 6.6 Federal Emergency Management Agency (FEMA) / Office of Federal and State Materials and Environmental Management Programs (FSME) / Regional EP Branch Chiefs: Responsible to provide input on EPFAQs submitted by State and local governments or federally recognized Indian tribes, as deemed appropriate.

7.0 PERFORMANCE MEASURES

Measurement of performance adequacy shall be performed in accordance with the requirements of the NSIR Operating Plan and should entail, at a minimum, the timeliness of the resolution of the EPFAQ.

8.0 PRIMARY POINT OF CONTACT

Michael Norris
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9.0 RESPONSIBLE ORGANIZATION

DPR is the organization responsible for the implementation of this procedure within NSIR, with assistance as necessary from within the NRC.

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11.0 REFERENCES

Enclosure: Attachment 1 - EPFAQ Process

Emergency Preparedness Program Frequently Asked Question (EPFAQ) Process

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DISTRIBUTION:

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Emergency Preparedness Program Frequently Asked Question (EPFAQ) Process

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Attachment 1 – EPFAQ Process (Typical)

