

EPFAQ 2013-003 Draft Response

Question:

Five questions are posed related to the revised emergency preparedness (EP) regulation associated with coordination with offsite agencies:

Question 1:

NSIR/DPR-ISG-01, "Interim Staff Guidance Emergency Planning for Nuclear Power Plants," Rev. 0, November 2011, (ISG) recommends that the licensee review onsite emergency plans to determine the type and extent of Offsite Response Organization (ORO) resources needed to support onsite response activities. Does the identification of ORO resources include references to specific equipment by type and number?

Question 2:

The NRC's regulation at Paragraph IV.A.7 of Appendix E to 10 CFR Part 50 states, in part:

"By June 23, 2014, identification of, and a description of the assistance expected from, appropriate State, local, and Federal agencies with responsibilities for coping with emergencies, including hostile action at the site...."

Approval of ORO emergency plan revisions, Memorandum of Understanding (MOU) or Letter of Agreement (LOA) may take State and local agencies time to review and approve. Is the regulatory requirement met once the identification of, and a description of the assistance expected from, State, local, and Federal agencies is completed and the request for either a plan change, revised MOU or LOA is formally transmitted to the State, local or Federal agency by letter for approval?

Question 3:

To define the extent of resources in the event of a hostile action, OROs may elect to cite mutual aid agreements with neighboring jurisdictions to identify and plan for additional resources. Is identification of a mutual aid agreement an adequate means to define the extent of ORO resources required to satisfy increased demands for a hostile action based event?

Question 4:

NRC Inspection Manual 71114.05, Section 03.08 requires the inspector to review LOAs/MOUs. It states in Section 03.08.b the type and extent of ORO resources needed to support onsite response activities during an emergency, including hostile action, have been identified and documented. Commitments for ORO resources related to hostile action based events could also be identified in offsite emergency plans. Is this an acceptable means?

Question 5:

The 2009 EP proposed rule would have required licensees to "ensure that offsite response organization resources (e.g., local law enforcement, firefighting, medical assistance) are

available to respond to an emergency including a hostile action event at a nuclear power plant site”. In response to public comments, the NRC revised the language, in part, to “identification of, and a description of the assistance expected from, appropriate State, local and Federal agencies....” In the Statement of Considerations for the EP final rule, the NRC concluded: “The NRC agrees with the comments that determining the adequacy of ORO emergency plans is under the jurisdiction of FEMA and other State and local organizations.”

However, NSIR/DPR-ISG-01 appears to direct licensees to exert authority over the OROs. Specifically, the ISG (page 20) recommends that licensees “Arrange for additional ORO resources as needed to address any remaining shortfalls.”

Consistent with the Statement of Considerations, a licensee’s responsibility is to identify ORO support for emergency response as well as demonstrate that various ORO capabilities exist through biennial evaluated exercises. The action to “arrange for additional ORO resources as needed to address any remaining shortfalls” should not be a licensee responsibility evaluated by the NRC under the ISG.

Should “arrange for additional ORO resources as needed to address any remaining shortfalls” be interpreted to mean that licensees are expected to address any gaps in ORO resources to support implementation of the licensee’s emergency plan, ORO emergency plans, or both?

NEI Proposed Solution:

Proposed Solution Question 1:

Resources are limited to human resources. The following examples support this conclusion. The ISG on page 19, paragraph two provides a list of human resources: “For example, police officers designated to staff evacuation traffic control points may instead be responding to hostile action at the plant or firefighters designated to perform route alerting may instead be responding to major fires at the plant resulting from hostile action”; Paragraph 4 on page 19 states: “ensure adequate resources are available to respond to the site”; Paragraph 6 on page 19 states: “increased demands on LLEAs”. In the EP final rule *Federal Register* notice (76 FR 72582), the NRC states, in part, that “offsite response organization resources (e.g., local law enforcement, firefighting, medical assistance) are available.”

Proposed Solution Question 2:

Compliance with the rule is achieved when the licensee updates existing arrangements as needed to clarify the type of assistance to be provided and the update is submitted by letter for review and approval by the State, local and Federal agencies. Licensees have no authority over OROs to approve the MOU/LOA by a specific date once resources are identified and provided to the State, local and Federal agencies.

Proposed Solution Question 3:

Identification of an interstate or intrastate mutual aid agreement by a State or local agency is an adequate means to define the extent of ORO resources required to satisfy increased demands

for a hostile action based event. Licensees are not responsible for ensuring or compelling specific actions by State, local agencies. The method of providing the resources identified by the licensee is left to the State, local or Federal agencies. The ISG, page 19, paragraph 6 sanctions the use of mutual assistance agreements by stating, "Licensees should consider expanding the use of mutual assistance agreements with neighboring authorities to identify and plan for additional LLEA resources, the reassignment of ORO functions to other than LLEAs, and other site-specific solutions to this issue."

Proposed Solution Question 4:

Offsite plan commitments for State or local resources related to hostile action based events could be identified in offsite plans. If specific resources are identified in Offsite Emergency Plans, it is not necessary to repeat these commitments in a MOU/LOA with the ORO.

Proposed Solution Question 5:

Licensees are expected to coordinate with State and local agencies to describe typical intrastate and interstate mutual aid assistance that may be expected from supporting offsite response organizations to respond to an emergency event (including a hostile action) event at a nuclear power plant site.

NRC Response:

The questions are related to Paragraph IV.A.7 of Appendix E to 10 CFR Part 50 that requires licensees to include in their emergency plans the identification of, and a description of the assistance expected from, appropriate State, local, and Federal agencies with responsibilities for coping with emergencies, including hostile action at the site.

Question 1:

This question pertains to the level of detail to be provided in a licensee's emergency plan in the description of assistance expected from State, local, and Federal agencies. The information to describe this assistance should include the resources and equipment each agency will provide and timeframe within which the assistance can be expected (e.g., a State radiation protection agency will provide a certain number of offsite radiological monitoring personnel within a certain timeframe to supplement licensee radiological monitoring teams). The description may also include additional information, such as the means of requesting assistance during an emergency, reporting locations, and principal points of contact. The description may, but does not need to, include references to specific equipment by type and number

The citations from the ISG and EP final rule *Federal Register* notice provided in the NEI proposed solution do not support NEI's assertion that the description of assistance required under Paragraph IV.A.7 is limited to human resources or hostile action response. Three of NEI's four examples refer to either "resources," which are not limited to human resources, and "LLEAs," which are organizations and can comprise human and non-human resources. Offsite assistance expected for any type of emergency, including an emergency declared as a result of

hostile action, must be identified and described in the licensee's emergency plan. Depending on the type of assistance, the description may need to include information about the facilities, methods, or functions to be provided, in addition to human resources. The description may, but does not have to, include references to specific equipment by type and number (in the example involving offsite radiation monitoring assistance, the type and number of radiation monitoring equipment that offsite personnel would use). For certain types of offsite assistance, such as law enforcement agency response onsite during hostile action, details of the specific resources, response times, and/or equipment to be provided may be considered sensitive information and would not be appropriate to include in the description of assistance in the emergency plan.

Question 2:

This question asks when a licensee can consider it has met the requirements of Paragraph IV.A.7. Compliance with Paragraph IV.A.7 consists of two parts: 1) documenting in the licensee emergency plan the offsite agencies with responsibilities for responding to an emergency at the licensee's site, along with a description of the assistance expected from those agencies, and 2) documenting arrangements with the offsite agencies to provide the assistance as identified and described in the licensee emergency plan during an emergency. These arrangements are usually documented in a letter of agreement, memorandum of understanding, or similar type of document, which are incorporated or referenced in the licensee emergency plan. The agreements are not considered to be in effect until they are finalized and approved by all signatories. The approved agreements must be in place and the emergency plan must be updated by June 23, 2014. The timeframe for compliance was increased from 180 days after the effective date of the EP final rule to 30 months after the effective date based on stakeholder feedback during the rulemaking process that obtaining new or updating existing arrangements for offsite support could be a lengthy process.

Question 3:

The issue raised in Question 3 pertains to whether a licensee can meet the requirement in Paragraph IV.A.7 by relying on and/or referring to mutual aid-type agreements between various offsite agencies, but not with the licensee itself, to provide assistance during an emergency at the licensee's site. Mutual aid-type agreements that address assistance specific to the licensee's site may be appropriate for the licensee to describe in its emergency plan and to include in its plan by reference if the agreements include the information discussed in the response to Question 1. The licensee would also need to ensure the agreements are kept up-to-date and in effect, even though the agreements are between other parties, on a periodic (e.g., annual) basis once they are referenced in the licensee emergency plan. Mutual aid-type agreements that are not directly tied to assistance for the licensee's site, but that only address the means for offsite agencies to obtain additional personnel to perform other offsite emergency plan response functions due to shortages of personnel normally assigned those functions, would not need to be described in the licensee emergency plan.

If the mutual assistance agreements are addressing the need for additional LLEA resources to respond to the site to support onsite response activities, then the situation is equivalent to the use of letters of agreement or memoranda of understanding by a licensee, and the expectations for documentation of the assistance in the licensee emergency plan discussed in the responses to Questions 1 and 2 apply. The appropriate offsite agencies are responsible for obtaining such agreements when additional LLEA resources may be needed to perform offsite emergency plan response functions (to “backfill” for LLEA personnel responding to the site) or if ORO functions are being reassigned to other than LLEAs.

Question 4:

This question asks whether a licensee can rely on and/or refer to commitments for State or local resources related to hostile action based events that are identified in offsite emergency plans. This issue appears to be similar to the one in Question 3, and the response is also similar. Commitments in offsite plans that address assistance specific to the licensee’s site may be appropriate for the licensee to describe in its emergency plan and to include in its plan by reference if the commitments include the information discussed in the response to Question 1. The licensee would also need to ensure the information pertaining to the commitments is kept up-to-date and the commitments remain in effect on a periodic (e.g., annual) basis once they are referenced in the licensee emergency plan.

Question 5:

This question asks for clarification of the text in NSIR/DPR-ISG-01 for licensees to “Arrange for additional ORO resources as needed to address any remaining shortfalls.” This text describes one of the actions licensees should complete to verify that adequate ORO resources have been identified to support onsite response activities during an emergency at the site. It addresses support of licensee activities only and does not include arranging for any additional ORO resources needed to support offsite emergency plan response activities. Licensees are encouraged to coordinate with State and local agencies to identify any shortfalls in ORO resources, including LLEA, firefighting, and medical assistance, that might occur as a result of response to an emergency (including hostile action) at a nuclear power plant site. However, offsite agencies (not licensees) are responsible for addressing any shortfalls that could impact offsite emergency plan response activities.