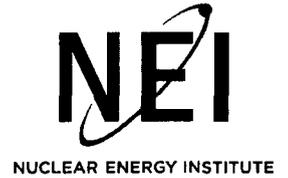


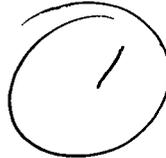
SUSAN PERKINS-GREW
Senior Director, Emergency Preparedness

1201 F Street, NW, Suite 1100
Washington, DC 20004
P: 202.739.8016
spg@nei.org
nei.org



6/5/2013
78FR 33862

July 1, 2013



Ms. Cindy K. Bladey
Chief
Rules, Announcements, and Directives Branch (RADB)
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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RULES AND DIRECTIVES
BRANCH
USNRC

Subject: Comments on Emergency Preparedness Frequently Asked Question (EPFAQ) No. 2012-007, 2013-001, 2013-002, 2013-003 and 2013-005 (*Federal Register Vol. 78, 33862*, dated June 5, 2013; Docket ID NRC-2013-0113)

Project Number: 689

Dear Ms. Bladey:

On behalf of the nuclear energy industry, the Nuclear Energy Institute (NEI)¹ appreciates the opportunity to provide comments on draft NRC responses EPFAQ numbers 2012-007 (ML13141A763), 2013-001 (ML13141A766), 2013-002 (ML13142A367), 2013-003 (ML13141A765), and 2013-005 (ML13141A764) published in the subject Federal Register notice.

The NRC and industry differ on the level of emergency plan detail required to describe the assistance expected from State, local and Federal agencies during a hostile action based event. Based on experience working with offsite response organizations (ORO), industry -has found that OROs may not commit in advance to the level of detail NRC suggests. These considerations are event-specific and controlled by the incident commander at the incident command post and potentially the governor during a declared state of

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities 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.

Ms. Cindy K. Bladey

July 1, 2013

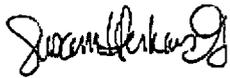
Page 2

emergency. The incident command system concept of operation is designed to optimize operational decisions.

Attached is a proposed mark-up of specific sections of the draft NRC FAQ responses with supporting basis for industry's comments. NEI requests a public meeting with NRC staff to discuss the attached mark-up and specifically, to provide industry's ORO coordination position.

Thank you in advance for consideration of these comments. If you have any questions or require additional information, please contact Martin Hug at (202) 739-8129; mth@nei.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Perkins-Grew". The signature is written in a cursive, flowing style.

Susan Perkins-Grew

c: Mr. Mark Thaggard, NSIR/DSP, NRC
Mr. Robert E. Kahler, NSIR/DPR/DDEP/IRIB, NRC
Mr. Robert J. Lewis, NSIR/DPR, NRC
NRC Document Control Desk

NRC EPFAQ 2012-007 Response

Markup of NRC Draft Response

Paragraph 4:

The intent of this portion of the guidance is that various segments of the ERO be provided opportunities to maintain the classification key skill. The NRC expects that over an 8 year planning cycle a typical drill and exercise program will have perhaps 100 or more classification opportunities. ~~While JPM, A Task Performance Evaluation (TPE) or OBE programs could contribute to the skill of the participant, they tend to be a one-on-one experience.~~ Drills are accepted as performance enhancing experiences when they reasonably simulate the interactions between appropriate ERFs and/or individuals that would be expected to occur during emergencies. ~~A one-on-one experience does not simulate the emergency response.~~ If the TPE evaluator reasonably simulates the interactions between ERFs and/or individuals that would be expected to occur during an emergency and the licensee maintains a record of that simulation/scenario then use of TPE is appropriate.

Basis for the Proposed Change

NEI recalls discussions with the NRC during the EP rule implementation workshops conducted after the final rule was published in the Federal Register on November 23, 2011, where the term "performance enhancing" in the context of demonstrating response to essentially 100% of ICs was not the same as in the context of DEP. Therefore, TPE should satisfy the cyclic demonstration provision as long as the appropriate records are maintained.

NEI suggests use of TPE as an acceptable method to supplement demonstration of 100% of the ICs. TPE requires evaluation, using qualified TPE evaluators, of key skills required to perform a task (in this case emergency classification).

TPE is an integral part of the nuclear industry training programs. Individual skills typically are developed during on the job training (OJT), followed by demonstration of these skills during TPE. Successful completion of OJT and TPE is an accepted industry process used by line managers to qualify plant personnel to independently perform key skills without reliance on technical supervision or coaching.

Industry would supplement drills and exercise classification opportunities by implementing TPE for demonstration of ICs that do not lend themselves to demonstration in drills (e.g., cold shutdown ICs). Industry would follow INPO ACAD 91-006, Rev. 1, Guidelines for On-the-Job Training and Evaluation, to ensure that emergency coordinators have the ability to independently assess ICs and

maintain the classification key skill. Supplementing the demonstration of the challenging drills and exercise rule change in this way is not only effective, but optimizes time and resources.

NRC EPFAQ 2013-001 Response

Markup of NRC Draft Response

Paragraph 2:

ETEs should be provided for the scenarios found in Table 1-3 of NUREG/CR-7002, "Criteria for Development of Evacuation Time Estimate Studies." These scenarios identify combinations of variables and events to provide ETEs for varying conditions to support PAR and PAD development. Multiple scenarios are used to ensure that the individual ETEs encompass a range of potential site-specific evacuation situations. For this reason, all of the scenarios in Table 1-3 should be considered in determining the necessity of an ETE update, with two possible exceptions. However, 10 CFR 50, Appendix E, Section IV.6 addresses only population increases that affect "the longest ETE value" for the 2-mile zone or 5-mile zone (including all affected Emergency Response Planning Areas), or for the entire 10-mile EPZ. Therefore, when evaluating the need for ETE updates based on population increases, the licensee should consider the impact of the population increase on the longest 90% ETEs, as listed in Table 1-3 (or equivalent) of the licensee's currently approved or updated ETE report, for: 1) the 2-mile zone (including all affected ERPAs); 2) the 5-mile zone (including all affected ERPAs); and 3) the entire 10-mile EPZ. There are two possible exceptions to this guidance.

Paragraph 4:

The need to include Scenario 9, Special Events, depends on the frequency of the special events analyzed. Scenario 9 may involve the congregation of a large, but transient, population into the EPZ for short periods of time four or more days. Licensees should consider using this scenario when determining whether an ETE update is necessary if the special event chosen for analysis is repetitive during the year, such as multiple home football or baseball games, and not a one-time event such as a seasonal parade. Licensees may use their discretion if it is a one-time per year event with short duration and/or minimal impact (e.g., adds less than 30 minutes to the ETE) on the transient population.

Basis for the Proposed Change

Requiring consideration of all of the scenarios in Table 1-3, to determine the necessity of an ETE update, presents an unnecessary burden on the licensee.

In order to identify the percentage of population change triggering a 30 minute change in ETE, the ETE contractors typically ran eight simulations iteratively for the 2-mile, 5-mile and full EPZ – 24 simulations total. This was performed using the scenario with the longest 90% ETE value and the results were documented in the ETE study. The scenario with the longest 90% ETE, bounds the population increase target value. Based on the NRC's draft response, a contractor would run 24 simulations for at least seven additional scenarios and possibly even eight if the special event occurs multiple times throughout the year.

"Short duration" and "minimal impact" are not defined in the NRC response. NEI recommends defining these terms.

Adding "per year" to the last sentence of paragraph 4 clarifies that a seasonal event is not considered.

NRC EPFAQ 2013-002 Response

Markup of NRC Draft Response

Replace NRC Response paragraphs 2 and 3 with the following simplified answer:

Day zero for calculating the 365-day maximum interval during which the impact of permanent resident population changes on the existing ETE analysis must be completed is either of the following dates, whichever occurs first:

1. The effective date of the licensee emergency plan revision that incorporates an updated ETE analysis (*includes incorporation by reference*),
2. The date the previous estimate of the impact of permanent resident population changes on the existing ETE analysis was completed.

Basis for the Proposed Change

The statement proposed above provides clarity and maintains NRC intent.

NEI and industry prefer elimination of the examples provided since they may not be pertinent to every licensee's situation.

NRC EPFAQ 2013-003 Response

Markup of NRC Draft Response 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. Offsite assistance expected for any type of emergency, including an emergency declared as a result hostile action, must be identified and described in the licensee's emergency plan. An adequate description of this offsite assistance would include general descriptions of the offsite agencies, and the resources and equipment available to those agencies, which could be used in responding to emergencies at the nuclear power plant site. Although the description does not have to include references to specific equipment by type and number, a general description should demonstrate the capability of the offsite agency to respond to site emergencies – including those involving hostile actions – to the extent that such a response is credited or relied upon by the licensee in the emergency plan. The NRC is aware that for certain types of offsite assistance, such as law enforcement agency response during hostile action, details of the specific resources that may be deployed in response to hostile actions, response times, and specific equipment available to the offsite agency may be considered sensitive information and, thus, unavailable or inappropriate to include in the description of assistance in the emergency plan. More specifically, the information to describe offsite assistance could 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 agency name and a clear and concise summary of responsibilities, emergency measures to be provided and concept of operation. For example

- [town name] EMS – Emergency Medical services, ambulances and emergency medical technicians as requested by [plant name] control room to the [town name] 911 operator and implemented using the incident command system (ICS);
- [county name] Fire and Rescue – Fire response, fire apparatus and volunteer firemen as requested by [plant name] control room to the [town name] 911 operator and implanted using the ICS;
- Traffic control -police vehicles and policeman as requested by [county name] emergency operations center through the [State name] intra-state mutual aid agreement.

~~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.~~

Basis for Proposed Change to NRC Response 1

Although the term "resources" is used multiple times in the ISG (see page 19, paragraphs 2 and 4), it is not defined in the document. However, NUREG-0654 FEMA REP-1 Rev. 1, *Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants*, provides insight regarding the meaning of the term. Criterion A.2.a states, in part: "Each organization shall specify the functions and responsibilities... The description of these functions shall include a clear and concise summary such as responsibilities using the agency as one axis, and the function as the other." Criterion A.3 states, in part: "Each plan shall include written agreements referring to the concept of operations developed between Federal, State and local agencies..."

NRC states in the response, "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." NEI and the industry have found that offsite response organizations will not commit to the level of detail that the NRC suggests (e.g., types and specific numbers of equipment, specific timeframes to provide resources, specific numbers of personnel). These considerations are event specific and controlled by the incident commander at the incident command post and potentially the governor during a declared state of emergency.

Licensees are required to demonstrate, during the hostile action event exercise, how they integrate with the off-site response organization's (ORO) incident command system (ICS) structure. The ICS concept of operation is designed to optimize operational decisions. ICS also depends upon the agreement and consistent use of intra-state and inter-state mutual aid compacts and the laws delineating and supporting mutual aid. This means the ORO, using ICS, will not commit any specific resource, human or equipment, until the actual event is assessed, threats to other critical infrastructure are assessed and the best use of a resource(s) is determined. The concept of operations is very organic and designed to promote operational flexibility, especially during a regional threat.

Markup of NRC Draft Response 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 license 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.~~

Basis for the Proposed Change to NRC Response 2

Paragraph IV.A.7 of Appendix E to 10 C.F.R. Part 50 requires:

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. For purposes of this appendix, "hostile action" is defined as an act directed toward a nuclear power plant or its personnel that includes the use of violent force to destroy equipment, take hostages, and/or intimidate the licensee to achieve an end. This includes attack by air, land, or water using guns, explosives, projectiles, vehicles, or other devices used to deliver destructive force. (emphasis added)

NEI continues to believe that the staff's interpretation of this paragraph imposes a requirement beyond what is expressly required by the rule. Specifically, the rule requires the licensee to identify and describe the assistance expected from OROs, but does not require a fully executed letter of agreement or memorandum of understanding. This additional requirement may result in *noncompliance due to delays in obtaining signatures from government officials, which are largely out of the licensee's control.* NEI maintains that a fully executed letter agreement or MOU is not necessary in order for a licensee to describe the assistance expected from designated OROs. If the NRC adopts the interpretation provided in the draft response, NEI anticipates that some licensees may likely file exemption requests due to delays in obtaining, or inability to obtain, final government signatures on agreements.

Markup of NRC Draft Response 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.~~

Basis for the Proposed Change to NRC Response 5

The proposed sentence adequately addresses the industry concern and provides the necessary clarity for the implementer.

NRC EPFAQ 2013-005 Response

Markup of NRC Draft Response

Paragraph 4:

1. is located outside the owner controlled area and within about 30 miles of the site (an EOF greater than 30 miles of the site, approved by the NRC for the offsite notification function, may be designated as the alternative facility for the offsite notification function).
2. will be accessible during threatened or actual hostile action at the site; and,
3. has the capability to perform offsite notifications within 15 minutes of a change in emergency classification level and/or issuance of a protective action recommendation when the alternative facility or facilities are in use.

Basis for the Proposed Change

Statement 1 in paragraph 4, excludes designating, as the alternative facility for the offsite notification function, an EOF serving multiple reactor sites and greater than 30 miles from the site.

NEI believes the 30 mile requirement assumes the EOF is designated for all alternative facility functions, including staging and therefore should be located a reasonable distance from the site.

If an EOF was previously approved or is approved in the future by the Commission for performing the offsite notification and is located greater than 30 miles from the site the facility should continue to be capable of performing the notification function during a hostile action based event as long as paragraph 4, conditions 2 and 3 are met.