

EPFAQ 2013-006 Response

Question:

Appendix E to 10 CFR Part 50, Section IV.A.7 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.”

10 CFR 73.55(k)(9), “Physical Protection of Plants and Materials Section, Response Requirements,” states:

“Law enforcement liaison. To the extent practicable, licensees shall document and maintain current agreements with applicable law enforcement agencies to include estimated response times and capabilities.”

The identification of and the description of assistance provided by applicable law enforcement agencies for hostile action at the site is already documented and maintained by security in accordance with 10 CFR 73.55(k)(9). Therefore, it should not be required to have redundant documentation in another licensee program.

When implementing Appendix E to Part 50, Section IV.A.7, is it acceptable to acknowledge that 10 CFR 73.55(k)(9) addresses the identification of and the description of assistance provided by applicable law enforcement agencies for the on-site response to hostile action?

NEI Proposed Solution:

When implementing Appendix E to 10 CFR Part 50, Section IV.A.7, it is not necessary to separately identify and describe assistance provided by applicable law enforcement agencies for the on-site response to hostile action. Licensees address this requirement by following the provisions of 10 CFR 73.55(k)(9).

NRC Response:

The NRC disagrees with NEI’s proposed solution. A licensee cannot meet the requirement in Section IV.A.7 of Appendix E to Part 50 of Title 10 of The Code of Federal Regulations (10 CFR Part 50) to identify and describe the assistance expected from, appropriate State, local, and Federal agencies in the licensee’s emergency plan by following or referencing the provisions of 10 CFR 73.55(k)(9) regarding law enforcement agencies.

The requirement in Section IV.A.7 of Appendix E to 10 CFR Part 50 is to identify and describe the assistance expected from appropriate State, local, and Federal agencies. This is applicable to the offsite agencies providing assistance to implement onsite response actions in support of the licensee’s radiological emergency plan. To meet the requirement in Section IV.A.7, the licensee must describe offsite assistance that pertains to implementation of the radiological

emergency plan and document the written agreement in or referenced in the emergency plan. If an agreement between a licensee and law enforcement agency addresses assistance to be provided under both the licensee's physical protection/safeguards contingency plans and radiological emergency plan and contains safeguards information, then the emergency plan should only reference the agreement. In this case, two separate agreements with the law enforcement agency would not be necessary.

The assistance that law enforcement agencies provide in response to a hostile action under the licensee's physical protection plan and/or safeguards contingency plan typically involves armed tactical response and should not be described in the radiological emergency plan. Agreements between licensees and law enforcement agencies describing armed response capabilities and estimated response times in accordance with 10 CFR 73.55(k)(9) should likewise not be included in the radiological emergency plan.