

## Kahler, Carolyn

---

**From:** Kahler, Carolyn  
**Sent:** Wednesday, May 28, 2014 11:34 AM  
**To:** 'MTH@nei.org'  
**Cc:** Anderson, Joseph  
**Subject:** RE: Response from "Submit a Question about Emergency Preparedness" (EPFAQ No. 2014-009)

Dear Mr. Hug:

Thank you for your recent submission of EPFAQ No. 2014-009 regarding clarifying the applicability of Initiating Condition PD-HA1 in the EAL decommissioning scheme, specifically in relation to definition of a "hostile action". At this time, your comment has been accepted for review by appropriate NRC staff. You will be notified via email when EPFAQ No. 2014-009 has been added to [www.regulations.gov](http://www.regulations.gov) for a 30-day public comment period. At that time, the ADAMS accession number and Federal Register Notice docket number will be provided for your reference.

To track the status of your submitted question, please visit the website <http://www.nrc.gov/about-nrc/emerg-preparedness/faq/faq-contactus.html#status>. If you have any questions regarding submitting an EP FAQ, please feel free to contact me at [carolyn.kahler@nrc.gov](mailto:carolyn.kahler@nrc.gov) or 301-287-3722.

Sincerely,

**Carolyn J. Kahler**

EP Specialist  
NSIR/DPR/ORLOB  
U.S. Nuclear Regulatory Commission  
Location: 3WFN- 9A31  
Phone: 301-287-3722  
Email: [Carolyn.Kahler@nrc.gov](mailto:Carolyn.Kahler@nrc.gov)

-----Original Message-----

From: [MTH@nei.org](mailto:MTH@nei.org) [<mailto:MTH@nei.org>]  
Sent: Sunday, May 18, 2014 1:13 PM  
To: EPFAQ Resource  
Subject: Response from "Submit a Question about Emergency Preparedness"

Below is the result of your feedback form. It was submitted by

([MTH@nei.org](mailto:MTH@nei.org)) on Sunday, May 18, 2014 at 13:13:11

through the IP 63.141.200.55

using the form at <http://www.nrc.gov/about-nrc/emerg-preparedness/faq/faq-contactus.html>

and resulted in this email to [epfaq.resource@nrc.gov](mailto:epfaq.resource@nrc.gov)

-----  
relevant-guidance:

revision-number:

applicable-sections:

comments: Question:

NEI 99-01, Development of Emergency Action Levels for Non-Passive Reactors, Revision 6 presents generic Initiating Conditions (ICs) and EALs in Appendix C, Permanently Defueled Station ICs/EALs. The NRC has concluded in previous exemption requests for facilities submitting certifications confirming cessation of operation and removal of fuel from the reactor vessel (Ref 10 C.F.R. 50.82) that they are not facilities that fall within the definition of "hostile action." Therefore, should facilities submitting certifications confirming cessation of operation and removal of fuel from the reactor vessel include the PD-HA1 EAL in the EAL scheme for an ISFSI only emergency plan and an emergency plan used during the period of time transitioning to an ISFSI?

Background:

The Emergency Preparedness Final Rule, which was published in the Federal Register (76 FR 72560; November 23, 2011), amended certain requirements in 10 CFR Part 50. Among the changes, the definition of "hostile action" was 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.

This definition was based on the definition of "hostile action" provided in NRC Bulletin 2005-02. That particular bulletin was not applicable to nuclear power reactors that have permanently ceased operations and have certified that fuel has been removed from the reactor vessel. Per NSIR/DRP-ISG-01, Emergency Planning for Nuclear Power Plants:

"The final rule requires nuclear power reactor licensees to ensure that adequate resources are identified to respond to the site during hostile action. Because "hostile action" is defined as "an act directed toward a nuclear power plant or its personnel," the NRC has excluded non-power reactors from the definition of "hostile action" at this time until a regulatory basis is developed to support inclusion of non-power reactors in that definition. However, non-power reactor licensees are still required to identify ORO resources that would respond to the facility in an emergency and the assistance licensees expect from them."

proposed-solution: A nuclear power reactor that has permanently ceased operations and has certified that fuel has been removed from the reactor vessel is not a facility that falls within the definition of "hostile action" and therefore need not include PD-HA1 in the decommissioned EAL scheme.

originator: Martin Hug

organization: Nuclear Energy Institute (NEI)

phone: 202.739.8129

-----