

REGULATORY ANALYSIS

DRAFT REGULATORY GUIDE DG-1324 GUIDANCE ON MAKING CHANGES TO EMERGENCY PLANS FOR NUCLEAR POWER REACTORS

(Proposed Revision 1 of Regulatory Guide 1.219, dated November 2011)

1. Statement of the Problem

In November 2011, the U.S. Nuclear Regulatory Commission (NRC) issued Revision 0 of Regulatory Guide (RG) 1.219, "Guidance on Making Changes to Emergency Plans for Nuclear Power Reactors." RG 1.219 was issued in conjunction with an emergency preparedness rulemaking, which along with other regulatory changes, amended 10 CFR 50.54(q). The focus of this guidance was on operating nuclear power reactors. Since the guide was issued, four reactor sites have certified that they have permanently ceased operations under 10 CFR 50.82. Other sites may similarly cease operations in the future. Permanent cessation of operations may reduce the scope of, but does not eliminate the need, for effective emergency preparedness. Also, it does not eliminate the NRC's need to ensure that there continues to be reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the shutdown facility. A licensee's failure to properly evaluate the proposed changes and/or failure to submit the change for prior approval impedes the staff's ability to make the required determination.

As a result of extensive comments received in public meetings and some enforcement actions citing improperly implemented changes to the emergency plans at permanently shut down facilities, the NRC staff determined that the guidance in RG 1.219 needed to be enhanced because it does not provide adequate guidance to licensees regarding emergency plan changes at those facilities.

The NRC is developing a broad rulemaking for decommissioned facilities, and changes to 10 CFR 50.54(q) are being considered as part of that rulemaking. However, instead of waiting for potential changes to the regulations, the NRC proposes to revise RG 1.219 to ensure that the guidance is adequate within the context of the current rules for facilities that have permanently ceased operations.

2. Objective

The objective of this regulatory action is to provide and clarify guidance to licensees that have permanently ceased operations under 10 CFR 50.82 or 10 CFR 52.110 on making changes to their emergency plans within the process established by the current 10 CFR 50.54(q). Improving the guidance would help licensees avoid the unnecessary regulatory burden associated with misinterpretations of the current regulations and ensure that the NRC staff is not deprived of its oversight role in maintaining effective emergency plans.

3. Alternative Approaches

The NRC staff considered the following alternative approaches:

1. Do not revise RG 1.219
2. Postpone revision to RG 1.219

3. Revise RG 1.219 to provide guidance to licensees that have permanently ceased operations under 10 CFR 50.82 or 10 CFR 52.110 on making changes to their emergency plans within the process established by the current 10 CFR 50.54(q)

Alternative 1: Do Not Revise RG 1.219

Under this alternative, the NRC would not revise this regulatory guide and the current guidance would be retained. This alternative is considered the “no-action” alternative and provides a baseline condition from which any other alternatives will be assessed. If NRC does not take action, there would not be any changes in costs or benefit to the public, licensees or NRC. However, the “no-action” alternative would not address identified concerns with the current version of the regulatory guide. The potential for licensees that have permanently ceased operations to, because of the lack of specific guidance, effect changes to their emergency plans that constitute reductions in effectiveness without obtaining the necessary prior NRC approval would remain. The NRC staff would not have had the opportunity to determine whether an emergency plan as modified would continue to provide the requisite reasonable assurance that adequate protective measures could and would be taken in the event of a radiological emergency at the facility.

Alternative 2: Postpone Revision to RG 1.219

Under this alternative, the NRC would not revise this regulatory guide until the decommissioning power reactors rulemaking was issued as a final rule. The current guidance would be retained until that time. Although a subsequent revision of RG 1.219 may become necessary because of the rulemaking, deferring the revision of RG 1.219 until that time would not realize the benefit from addressing the identified concerns with the current version of the regulatory guide in the interim. The staff does not expect that the need for the guidance in the proposed revision of the regulatory guide will be eliminated by changes to 10 CFR 50.54(q). If the NRC postponed revising RG 1.219, there would not be any changes in costs or benefit to the public, licensees or NRC.

Alternative 3: Revise RG 1.219

Under this alternative, the NRC would revise RG 1.219 to provide improved guidance on the implementation of 10 CFR 50.54(q) at facilities that have permanently ceased operations and who seek to reduce the regulatory burden of maintaining capabilities no longer required by the current plant operations and configuration.

The benefits of this action for licensees of permanently shut down facilities are:

- Clearer guidance on why change processes other than 10 CFR 50.54(q) (e.g., 10 CFR 50.59, 10 CFR 50.82) may not be used to change the licensing basis of the facility’s emergency plan.
- Clearer guidance on the reduction in effectiveness analysis being based on the differences between the emergency plan as approved by the NRC and the plan as modified.
- Reduced enforcement actions arising from misinterpretations of the existing regulations.
- Greater certainty in implementing changes that do not warrant prior NRC review.

The benefits of this action for the NRC are:

- Additional certainty that changes that constitute reductions in effectiveness will be submitted for prior NRC review.

- Fewer enforcement actions arising from misinterpretations of the existing regulations.
- Enhanced efficiency and effectiveness in using an enhanced guidance document as the technical basis for license applications for prior approval of emergency plan changes and other interactions between the NRC and its regulated entities.

The impact to the NRC would be the costs associated with preparing and issuing the regulatory guide revision. The impact to the public would be the voluntary costs associated with reviewing and providing comments to NRC during the public comment period.

Conclusion

Based on this regulatory analysis, the NRC staff concludes that RG 1.219 should be revised without waiting until a possible rule change to 10 CFR 50.54(q) is completed. This action will clarify staff positions in the near term concerning changes to emergency plans at facilities that have permanently ceased operations. The action will enhance reactor safety by improving the effectiveness of licensee reviews of proposed changes to the emergency plans at facilities that have permanently ceased operations.