

**POLICY ISSUE
(Information)**

July 30, 2010

SECY-10-0099

FOR: The Commissioners

FROM: James T. Wiggins, Director
Office of Nuclear Security and Incident Response

SUBJECT: PROPOSED REVISION TO MEMORANDUM OF UNDERSTANDING
BETWEEN THE FEDERAL EMERGENCY MANAGEMENT AGENCY
AND THE NUCLEAR REGULATORY COMMISSION

PURPOSE:

To inform the Commission of the outcome of efforts related to coordination with the Federal Emergency Management Agency (FEMA) in response to Commission Staff Requirements Memorandum (SRM) for SECY-06-0101, "Emergency Preparedness for Day Care Facilities Within the Commonwealth of Pennsylvania: Update on Staff Actions and Request for Commission Approval for Related Staff Actions," dated June 21, 2006 (ADAMS Accession No. ML061720324).

BACKGROUND:

In SECY-06-0101, dated May 4, 2006 (ADAMS Accession No. ML060760541), the staff outlined various future actions for coordination with FEMA. These initiatives include working through a Nuclear Regulatory Commission (NRC)/FEMA standing subcommittee to pursue updates and enhancements to the NRC/FEMA Memorandum of Understanding (MOU).

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In the SRM to SECY-06-0101, the Commission directed the staff to “pursue an increased NRC participation in defining the extent of play for FEMA exercises during revision of the NRC/FEMA MOU. The staff should inform the Commission of the outcome of its efforts related to revision of the MOU.” The NRC/FEMA MOU referenced in the SRM is contained in Appendix A of Title 44 of the *Code of Federal Regulations* (44 CFR) Part 353.

DISCUSSION:

In response to the SRM, NRC and FEMA staff formed a joint working group to review and identify potential updates and enhancements to the NRC/FEMA MOU. The working group found that the existing MOU contains clear high-level description of agency roles and responsibilities and established a joint NRC/FEMA Steering Committee on Emergency Preparedness (EP). However, the MOU is not specific regarding operation and conduct of the joint Steering Committee. At the time of the SRM, the chairs of the Steering Committee were at the branch chief level and the meetings primarily served as a forum for NRC Headquarters' staff to share general program status. The NRC staff determined that the effectiveness of the Steering Committee as a mechanism for interagency coordination could be improved through increased senior management involvement, development of a formal process for conduct of the Committee's activities, and involvement of NRC and FEMA regional representatives. Relative to the specific issue of NRC participation in defining the offsite extent of play for exercises at the time of the SRM, NRC staff did not routinely participate in pre-exercise offsite planning activities with FEMA.

To enhance the coordination on EP issues, the NRC staff has done the following:

1. On June 1, 2009, NRC and FEMA adopted a formal charter for the Steering Committee on EP (enclosed). This charter supplements the existing NRC/FEMA MOU by providing a defined process to effectively communicate, coordinate, and prioritize significant EP issues. The charter also establishes periodic meetings between NRC Headquarters' staff and FEMA allows participation by Regional staff and other Federal agencies as appropriate. To ensure appropriate senior management buy-in from both agencies, the NRC Director, Office of Nuclear Security and Incident Response, and the FEMA Deputy Administrator, National Preparedness Directorate, signed the charter. The charter also specifically designates the NRC Director of the Division of Preparedness and Response and FEMA Director of the Technological Hazards Division as the respective agency co-chairs to ensure appropriate management direction and oversight.
2. In response to Homeland Security Presidential Directive 8, offsite organizations have adopted the Homeland Security Exercise and Evaluation Program (HSEEP) as the framework for exercises. This process allows for appropriate NRC involvement in development of the extent of play through participation in various planning conferences involving FEMA and respective offsite organizations. In addition, the HSEEP process allows for the flexibility to focus exercise demonstrations, as needed, to address specific criteria and program elements.

CONCLUSION:

Adoption of a formal NRC/FEMA EP Steering Committee charter, together with the opportunities for NRC staff engagement in exercise planning under HSEEP, provides effective mechanisms for NRC and FEMA coordination, particularly related to consideration of program enhancements and exercise development, conduct, and evaluation. Given these formal enhancements and discussions with FEMA, the staff does not plan to further pursue an MOU revision.

RESOURCES:

This paper does not contain any future funding implications. Actions regarding the Steering Committee require no additional funds.

COORDINATION:

The Office of the General Counsel reviewed this package and has no legal objection. FEMA is aware of this package and viewed it prior to publication.

/RA/

James T. Wiggins, Director
Office of Nuclear Security and Incident Response

Enclosure:
As stated

Charter

Joint FEMA/NRC Steering Committee on Emergency Preparedness

1. Purpose: This charter establishes the day-to-day procedures for the composition and operation of the joint Steering Committee on Emergency Preparedness (EP) as specified in the “Memorandum of Understanding [MOU] Between Federal Emergency Management Agency [FEMA] and Nuclear Regulatory Commission [NRC] Related to Radiological Emergency Planning and Preparedness.”

2. Scope: The FEMA/NRC Steering Committee on EP is intended to assure coordination of efforts to maintain and improve emergency planning and preparedness for nuclear power reactors as described in the NRC and FEMA rules and NRC/FEMA MOU on radiological emergency planning and preparedness. As such, the FEMA/NRC Steering Committee on EP serves as the normal point of contact for implementation of the elements contained in the MOU.

3. Background: The MOU established a framework of cooperation between the FEMA and NRC in radiological emergency response planning matters so that their mutual efforts will be directed toward more effective plans and related preparedness measures at and in the vicinity of nuclear reactors and fuel cycle facilities which are subject to 10 CFR Part 50, Appendix E, and other fuel cycle and materials licensees which have potential for significant accidental offsite radiological releases. The MOU is in response to President Carter’s decision of December 7, 1979, that FEMA take the lead in offsite planning and response, his request that NRC assist FEMA in carrying out this role, and the NRC’s continuing statutory responsibility for the radiological health and safety of the public. The general principles agreed to in this MOU are as follows:
 - FEMA coordinates all Federal planning for the offsite impact of radiological emergencies and takes the lead for assessing offsite radiological emergency response plans and preparedness, makes findings and determinations as to the adequacy and capability of implementing offsite plans, and communicates those findings and determinations to the NRC.
 - The NRC reviews those FEMA findings and determinations in conjunction with the NRC onsite findings for the purpose of making determinations on the overall state of emergency preparedness.

4. Committee Function: Assure coordination of plans and preparedness evaluation activities and revise, as necessary, acceptance criteria for licensees’, State, and local radiological emergency planning. NRC and FEMA will then consider and adopt criteria as appropriate in their respective jurisdictions.

To accomplish this, the FEMA/NRC Steering Committee for EP, at the direction of the respective agency co-chairpersons, shall:

- a. Conduct periodic meetings between FEMA and NRC Headquarters staff, to include Regional and other applicable Federal agency representation as appropriate, to review the status of joint radiological emergency preparedness (REP) activities as defined under the MOU and establish the appropriate prioritization of activities and designation of resources.
- b. Establish specifically defined working groups consisting of FEMA and NRC staff to coordinate development and resolution of significant issues impacting both FEMA and NRC programs and processes for the determination of adequacy of EP plans and preparedness within their respective areas of responsibility.
- c. Coordinate the briefing of NRC Commission and senior staff, FEMA senior management, and applicable government agency groups/committees on significant issues of interest or joint activities impacting REP activities and responsibilities.

5. Committee Membership

- a. Designation of Agency Co-Chairpersons shall be the following division director level positions:

- FEMA Director, Technological Hazards Division, National Preparedness Directorate
- NRC Director, Division of Preparedness and Response, Office of Nuclear Security and Incident Response

Each agency co-chairperson may also identify an alternate.

Per the MOU, co-chairs will be their designated agency representative with one vote per agency. When the Steering Committee cannot agree on the resolution of an issue, it will be referred to the following NRC and FEMA senior management:

- NRC Director, Office of Nuclear Security and Incident Response
- FEMA Deputy Administrator for National Preparedness

- b. Designated Committee Members (non-voting) will include, at a minimum:

NRC
Deputy Director, NSIR/DPR-EP
Branch Chief, NSIR/DPR

FEMA
Chief, REP Program Branch
Deputy Chief, REP Program Branch

FRPCC
Executive Secretariat

- c. A Committee Secretary will be appointed jointly by the NRC/FEMA co-chairpersons. The position may be alternated between agencies for a defined period of time based on the consensus of the co-chairpersons. The responsibilities of the Committee Secretary shall be as follows:
- (i) Ensure that meetings are conducted at the minimum frequency specified and will meet the minimum attendance requirements as specified below under **Meeting and Attendance**.
 - (ii) Agenda:
 - Develop a proposed agenda for upcoming meetings based on input from respective EP program branch chiefs, and obtain approval from the respective co-chairpersons (or designee). For a Level 1 meeting (as described under **Meeting and Attendance** below), the agenda should include, as a minimum, the status of outstanding action items and a status report out from current joint NRC/FEMA working groups.
 - Issue a final agenda in advance for a Level 1 or Level 2 meeting at least 5 working days and 15 working days respectively.
 - Coordinate logistical arrangements and attendance for the meeting.
 - (iii) Meeting Record:
 - Maintain a record of each meeting to include, at a minimum, the identification of issues discussed and conclusions reached. Record should also list action items identified, responsible individual(s), and targeted completion goal for each action item.
 - Obtain comments on draft record from presenters and NRC/FEMA EP program branch chiefs, and forward to co-chairpersons (or designee) for approval.
 - Distribute approved record to co-chairpersons, NRC/FEMA EP program branch chiefs, presenters, and others as designated. Goal should be to issue record within 10 working days of meeting.
6. Meetings and Attendance: At the direction of co-chairpersons, meetings may be designated which involve varying level of participation. Per the MOU, no meeting will be held without attendance and participation of at least the co-chairs or two assigned members of each agency (quorum).
- a. Level 1 Meetings will normally involve the participation of agency co-chairpersons, FEMA and NRC committee members (see **Committee Membership** above), and REP staff members required to support discussion of agenda topics. When items involving responsibilities of other NRC or FEMA offices, or Federal agencies, are to be specifically discussed, the respective Federal agency or NRC/FEMA office will be contacted and offered the opportunity to attend and provide input as deemed appropriate by co-chairpersons. A Level 1 meeting should be conducted at least once every calendar quarter or more frequently, as appropriate.

- b. Level 2 Meetings will involve the participation of FEMA/NRC Headquarters REP staff (Level 1), but would also include representation for Regional REP programs and other Federal agencies, as directed by co-chairs. The purpose will be to discuss and gain alignment of key issues and challenges. A Level 2 meeting should be conducted at least annually or more frequently, as appropriate.
7. Terms: This charter goes into effect upon the date of signing by the FEMA Deputy Administrator for National Preparedness, and by the NRC Director for the Office of Nuclear Security and Incident Response. The charter may be terminated by either signatory with 90 days written notice, or may be amended in writing with the mutual consent of both signatories.
8. Approval: This charter establishes the day-to-day procedures for FEMA/NRC Steering Committee on EP as specified in the MOU between FEMA and NRC related to radiological emergency planning and preparedness, and does not alter the defined purpose and working arrangements as established in this MOU.

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