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From: "Luellen B Jones" <lbjones@duke-energy.com>
To: <SECY@nrc.gov>
Date: Tue, Sep 23, 2003 9:01 AM
Subject: Duke Energy Comments for (RIN 3150-AH00) Proposed Rule, Emergency Planning and Preparedness for Production and Utilization Facilities

September 22, 2003

Secretary
 U. S. Nuclear Regulatory Commission
 Washington, DC 20555-0001
 Attn: Rulemaking and Adjudications Branch

Subject: Emergency Planning and Preparedness for Production and Utilization Facilities, Proposed Rule (68 Fed. Reg. 43673, July 24, 2003) RIN 3150-AH00

DOCKETED
 USNRC

September 23, 2003 (2:27PM)

OFFICE OF SECRETARY
 RULEMAKINGS AND
 ADJUDICATIONS STAFF

Duke Energy Corporation has reviewed and supports the adoption of the Proposed Rule, Emergency Planning and Preparedness for Production and Utilization Facilities (68 Fed. Reg. 43673, July 24, 2003) to amend 10CFR Part 50 Appendix E.IV regarding NRC approval of licensee changes to Emergency Action Levels (EAL) and exercise requirements for co-located licensees. These changes will reduce unnecessary regulatory burden on licensees while maintaining an acceptable level of safety.

NRC review and approval of every EAL change prior to implementation is not necessary to provide reasonable assurance that EALs will continue to provide an acceptable level of safety. Requiring prior NRC review and approval in the two situations described in the proposed rule (EAL changes that potentially decrease the effectiveness of the plan and changing from one EAL scheme to another) will ensure adequate regulatory oversight of the licensee's emergency classification system. The NRC will continue to review through the inspection process the licensees determinations as to which EAL changes represent potential decreases in the effectiveness of the Emergency Plan. These changes will provide a means for licensees to improve their EALs without undo regulatory burden.

Clarifying exercise requirements to allow alternating participation in exercises for co-located licensees will remove ambiguity that currently exists. The proposed exercise frequency, coupled with the detailed activities and interactions will continue to provide a sufficient level of assurance of offsite emergency preparedness. Also, it will provide clear guidance for future licensing actions, and avoid undo burden on offsite response organizations.

Duke Energy Corporation appreciates the efforts the NRC staff has made to clarify the regulations. If you have any questions please contact Tina Kuhr at (704) 382-3151 or email (tmkuhr@duke-energy.com).

Sincerely,

W. R. McCollum, Jr.
 Senior Vice President,
 Nuclear Support

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