

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
OFFICE OF NEW REACTORS
WASHINGTON, DC 20555-0001

April 16, 2014

NRC REGULATORY ISSUE SUMMARY 2014-02
WITHDRAWAL OF NRC GENERIC LETTER 95-08, "10 CFR 50.54(p) PROCESS FOR
CHANGES TO SECURITY PLANS WITHOUT PRIOR NRC APPROVAL"

ADDRESSEES

All holders of and applicants for construction permits or operating licenses for nuclear power reactors under the provisions of Title 10, "Energy," of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities."

All holders of and applicants for a combined license, standard design approval, or manufacturing license under 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Reactors." All applicants for a standard design certification, including such applicants after initial issuance of a design certification rule.

INTENT

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to inform addressees that the original issue of NRC Generic Letter (GL) 95-08, "10 CFR 50.54(p) Process for Changes to Security Plans without Prior NRC Approval" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML031070150), has been withdrawn through the issuance of GL 95-08, Revision 1 (ADAMS Accession No. ML14055A356). By letter dated September 14, 2012 (ADAMS Accession No. ML12220A581), the NRC staff transmitted its endorsement of the Nuclear Energy Institute (NEI) guidance document NEI 11-08, "Guidance on Submitting Security Plan Changes," Revision 0, dated August 2012 (ADAMS Accession No. ML12216A194). NEI 11-08, Revision 0, provides an acceptable methodology for NRC licensees to evaluate and submit security plan changes to the NRC. To prevent any confusion, GL 95-08 is withdrawn. This RIS requires no action or written response by the addressees.

BACKGROUND INFORMATION

On October 31, 1995, the NRC issued GL 95-08 to clarify the process for licensees to change security plans in accordance with 10 CFR 50.54(p). In the nearly 20 years since its issuance, GL 95-08 has become outdated as the security regulatory framework has changed to include, among other developments, new cyber security and physical protection requirements. In a letter dated August 3, 2012, NEI requested the NRC to endorse NEI 11-08, Revision 0, "Guidance on Submitting Security Plan Changes," dated August 2012 (ADAMS Accession No. ML122160405). NEI developed this document to set forth an acceptable methodology for

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licensees to determine if changes to security plans require prior NRC approval. On September 14, 2012, the NRC sent a letter to NEI stating that “the NRC finds NEI 11-08, ‘Guidance on Submitting Security Plan Changes,’ Revision 0, dated August 2012, acceptable for use by licensees” (ADAMS Accession No. ML12220A581).

SUMMARY OF ISSUE

The provisions in 10 CFR 73.55(c), “Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors against Radiological Sabotage,” require licensees to submit and maintain security plans. These consist of the physical security plan, the training and qualification plan, the safeguards contingency plan, and the cyber security plan. The NRC notes that GL 95-08 does not address cyber security plan changes. Additionally, the provisions in 10 CFR 73.55(c)(1) require that licensee security plans describe how the licensee will implement the requirements of 10 CFR Part 73, “Physical Protection of Plants and Materials,” through the establishment and maintenance of a security organization, the use of security equipment and technology, the training and qualification of security personnel, the implementation of predetermined response plans and strategies, and the protection of digital computer and communication systems and networks. The licensee must also describe site-specific conditions that affect how the licensee implements Commission requirements.

The provisions in 10 CFR 50.54(p)(1) require that “The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C of Part 73 of this chapter affecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan. The licensee may not make a change that would decrease the effectiveness of a physical security plan, or guard training and qualification plan, or cyber security plan prepared under § 50.34(c) or § 52.79(a), or Part 73 of this chapter, or of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, Responsibility Matrix) contained in a licensee safeguards contingency plan prepared under § 50.34(d) or § 52.79(a), or Part 73 of this chapter, as applicable, without prior approval of the Commission. A licensee desiring to make such a change shall submit an application for amendment to the licensee’s license under § 50.90 [‘Application for License, Construction Permit, or Early Site Permit’].”

NEI 11-08, Attachment 1, “Areas of Consideration for ROWS [Remotely Operated Weapons System] Implementation,” provides criteria for licensees to evaluate impacts of security plan changes for implementation of ROWS. The attachment also provides examples of areas of consideration that licensees can use for evaluating their plan changes in order to ensure that they properly review all related sections within the plan. This review must analyze and determine the effects of the changes in all applicable sections of the security plan to ensure a level of detail in the analysis sufficient to allow a licensee to explain how the licensee arrived at its conclusions regarding the effect of proposed changes on the effectiveness of a security plan. The NRC recognizes that improvements in one area of a licensee’s plan may offset reductions in other areas of the plan. However, any changes to a licensee’s security plan must not reduce the overall effectiveness of that plan to meet the overall high-assurance objectives stated in 10 CFR 73.55(a).

In a letter dated September 14, 2012, the NRC endorsed NEI 11-08, Revision 0. This RIS informs addressees that the original issue of GL 95-08 has been withdrawn through the issuance of GL 95-08, Revision 1, to prevent potential confusion resulting from the outdated guidance cited in GL 95-08.

BACKFITTING AND ISSUE FINALITY

This RIS announces the withdrawal of the NRC staff's guidance on the processes for changes to security plans without NRC approval contained in GL 95-08, which is no longer useful as the result of the adoption or amendment of 10 CFR 50.54(p); 10 CFR 73.54, "Protection of Digital Computer and Communication Systems and Networks"; and 10 CFR 73.55, "Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage," after the 1995 issuance of GL 95-08. The guidance in NEI 11-08, Revision 0, addresses the security-plan change processes affected by these rulemakings, as well as the security regulations that were not affected by those rulemakings but are subject to the same change-process requirements as the amended regulations. Furthermore, NEI 11-08, Revision 0, does not contain any new or changed guidance with respect to those security regulatory requirements that remain unchanged by the NRC rulemakings listed above. Therefore, GL 95-08 does not apply to the amended regulations and is not needed for the security-related regulations that were not changed by those rulemakings.

This RIS requires no action or written response. The RIS applies to all holders of and applicants for construction permits or operating licenses for nuclear power reactors under 10 CFR Part 50; all holders of and applicants for a combined license, standard design approval, or manufacturing license under 10 CFR Part 52; and all applicants for a standard design certification, including such applicants after initial issuance of a design certification rule.. The guidance in this RIS does not constitute backfitting as defined in 10 CFR 50.109 or represent an inconsistency with the issue finality provisions in 10 CFR Part 52. The backfitting issues associated with the new and changed regulatory requirements adopted in the listed rulemakings were addressed as part of those rulemakings. In addition, neither this RIS nor NEI 11-08, Revision 0, includes changed or new guidance on security regulatory requirements unchanged by the rulemakings listed above. Therefore, there is no backfitting or inconsistency with issue finality provisions with respect to security regulatory requirements unchanged by the rulemakings listed above.

FEDERAL REGISTER NOTIFICATION

A notice of opportunity for public comment on this RIS was not published in the *Federal Register* because this RIS is informational and pertains to a staff position that does not represent a departure from current regulatory requirements and practice. The NRC intends to continue working with NEI, industry representatives, members of the public, and other stakeholders in developing guidance and in modifying related guidance documents.

CONGRESSIONAL REVIEW ACT

This RIS is not a rule as defined in the Congressional Review Act (5 U.S.C. §§ 801–808).

PAPERWORK REDUCTION ACT STATEMENT

This RIS announces that GL 95-08 is withdrawn to avoid confusion with updated guidance that includes information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). The information collection requirements in the Generic Letter were approved by the Office of Management and Budget, approval numbers 3150-0002, 3150-0011, and 3150-0151. The updated guidance clarifies, but does not materially change, the information collection requirements in the generic letter.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

CONTACT

Please direct any questions about this matter to one of the technical contacts listed below.

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Note: NRC generic communications may be found on the NRC public Web site,
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