

4. Have the Navy and EPA Region 9 agreed to NRC's approach?

On January 16, 2009, NRC sent letters to both the Navy and EPA Region 9 that explained NRC's limited involvement approach and requested agreement to support the approach at the Hunters Point site. The Navy provided a response on April 1, 2009, that agreed to support NRC's approach. Similarly, EPA Region 9 provided a response on May 7, 2009, that also supported NRC's approach.

5. What documents are available that provided additional information about NRC's involvement with the HPS site?

The NRC staff's evaluation of jurisdiction and options for involvement is documented in a May 30, 2008, Commission paper (SECY-08-0077) that is electronically available on NRC's Web site at: <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2008/secy2008-0077/2008-0077scy.pdf>.

The Commission's decision and direction to the staff is documented in a June 30, 2008, Staff Requirements Memorandum (SRM-SECY-08-0077) that is also electronically available on NRC's Web site at: <http://www.nrc.gov/reading-rm/doc-collections/commission/srm/2008/2008-0077srm.pdf>.

The letters mentioned above from the NRC, the Navy, and EPA Region 9 are available from the NRC's Agencywide Document Access and Management System using the following accession numbers:

NRC's January 16, 2009, letter to the Navy ML083440652.

NRC's January 16, 2009, letter to the EPA ML083430426.

Navy's April 1, 2009, letter to NRC ML091120805.

EPA's May 7, 2009, letter to NRC ML091460102.

Dated at Rockville, MD, this 29th day of June, 2009.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

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NUCLEAR REGULATORY COMMISSION

[NRC-2009-0344]

Regulatory Guide Withdrawal

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of Regulatory Guide 1.135, Normal Water Level and Discharge at Nuclear Power Plants.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide (RG) 1.135, "Normal Water Level and Discharge at Nuclear Power Plants." Regulatory Guide 1.135 was issued for comment in September 1977 and never finalized. The RG was intended to provide guidance on estimating the normal ground and surface water elevations at a nuclear power plant site. The determination of normal and flood water elevation is one of the site characteristics required by Title 10 of the *Code of Federal Regulations*, part 100, "Reactor Site Criteria," section 10, "Factors to be considered when evaluating sites," (10 CFR 100.10) for test reactors and stationary power reactor site applications dated before January 10, 1997 and by 10 CFR 100.20, "Factors to be Considered When Evaluating Sites," for stationary power reactor site applications dated on or after January 10, 1997.

General Design Criterion (GDC) 2, "Design Basis for Protection Against Natural Phenomena," of Appendix A, "General Design Criteria for Nuclear Power Plants," to 10 CFR part 50 requires facilities to be designed for protection against the most severe of the natural phenomena that have been historically reported for the site and surrounding area. This includes events such as floods, tsunamis, and seiches. A determination of the normal pool level as described in RG 1.135 is not required by GDC 2 and thus, compliance with GDC 2 is not impacted by the withdrawal of RG 1.135.

The guidance in RG 1.135 is no longer current; section 2.4.1, "Hydrologic Description" in Chapter 2, "Sites Characteristics," of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants" (the SRP) contains more current guidance for complying with the

site criteria regulations. Additionally, a review of updated Final Safety Analysis Reports (FSARs) from licensees and applicants determined that only a few FSARs referenced RG 1.135 and no applicant or licensee is currently using it. Applicants and licensees use the guidance in the SRP and ANSI/ANS-2.8-1992, "Determining Design Basis Flooding at Power Reactor Sites" for water level determinations. Revising this guide could be potentially confusing for the staff and applicant.

Regulatory Guide 1.135 is being withdrawn because it is outdated, the staff is unaware of its use by any current licensee or applicant, and it does not provide guidance that is not more current and more readily available in the SRP or ANSI/ANS-2.8-1992.

II. Further Information

Withdrawal of RG 1.135 does not, in and of itself, alter any prior or existing licensing commitments based on its use. The guidance provided in this RG is no longer necessary. Regulatory Guides may be withdrawn when their guidance is superseded by Congressional action, the methods or techniques described in the Regulatory Guide no longer describe a preferred approach, or the Regulatory Guide does not provide useful information.

Regulatory guides are available for inspection or downloading through the NRC's public Web site under "Regulatory Guides" in the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/doc-collections>. Regulatory guides are also available for inspection at the NRC's Public Document Room (PDR), Room O-1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738. The PDR's mailing address is US NRC PDR, Washington, DC 20555-0001. You can reach the staff by telephone at 301-415-4737 or 800-397-4209, by fax at 301-415-3548, and by e-mail to pdr.resource@nrc.gov.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 29th day of July, 2009.

For the Nuclear Regulatory Commission.

John N. Ridgely,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

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