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April 10, 2000

Chief, Rules and Directives Branch
Division of Administrative Services
Office of Administration, Mail Stop: T-6D59
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

RE: Comments on Changes to the Allegations
Program Under the New Reactor Oversight Program

On November 23, 1999, the Nuclear Regulatory Commission (NRC) Staff issued SECY-99-273, "Impact of Changes to the Inspection Program for Reactors on Implementing the Allegation Program." On February 9, 2000, the NRC issued a Request for Public Comment on the Allegations Program under the New Regulatory Oversight Program, as outlined in SECY-99-273. 65 Fed. Reg. 6399. The Nuclear Regulatory Services Group (NRSNG)¹ submits the following comments on the proposed changes to the allegations program. The NRSNG also supports the comments submitted by the Nuclear Energy Institute on behalf of the industry.

The NRSNG agrees with the NRC that the allegations program must withstand public scrutiny and, under appropriate circumstances, must protect the identity of the alleged. The NRSNG also agrees that steps must be taken to bring the allegations program in line with other NRC initiatives, including the new reactor oversight program, that prevent allocation of scarce regulatory and licensee resources to issues of little or no safety significance. Only by risk-informing the allegations management program will both the NRC and licensees have a reasonable, scrutable basis to prevent the expenditure of resources on issues that represent little or no risk to the health and safety of the public or of workers at NRC-licensed facilities. Also, only by risk-informing the allegations program will the NRC have a scrutable basis for

¹ The NRSNG is a consortium of commercial nuclear reactor licensees represented by the law firm of Hopkins & Sutter.

appropriately escalating an issue for expeditious inspection or for licensee response. Thus, for the reasons set forth below, the NRSRG urges the NRC to adopt a risk-informed allegation management program.

NRSRG Responses to NRC Questions

The NRSRG provides the following responses to the NRC's questions soliciting views on the allegations program as it may exist under the new oversight process. See 65 Fed. Reg. 6400-01.

- *Which of the four Options contained in the Commission paper will strike the best balance between the efficient use of agency resources and the need for allegers to feel the NRC will address their issue(s) and protect their identity, if they so desire?*

NRSRG supports NRC implementation of Option 3 from SECY-99-273, risk-informing the allegations program,² as providing the best balance between the efficient use of agency resources and the need for allegers to feel that the NRC will address their issues and protect their identity, if desired. Adopting this risk-informed approach is not only consistent with the new oversight program, it is also consistent with the Commission's direction to risk-inform regulation of reactor licensees. This risk-informed approach is grounded in the need to protect public health and safety while efficiently using resources in the oversight and operation of nuclear facilities.

While allegers must have an outlet that will ensure appropriate disposition of valid concerns, many allegations fail to raise concerns that warrant NRC or licensee action. Application of the Significance Determination Process (SDP) filter is an objective, scrutable way to allocate resources, to prioritize issue resolution and to determine whether an allegation raises a safety concern warranting resolution. If the new oversight program is to succeed, reactor licensees require assurance that low-risk significance events, whether raised in allegations, found by inspectors, or identified by the licensee, will not subject them to unwarranted regulatory burdens.

It is the transparency of the SDP that will provide allegers assurance that legitimate safety concerns will be appropriately and timely dispositioned. A risk-informed allegations program can continue to protect the identity of allegers, just as with the current allegations program.

² Under Option 3, all allegations are assumed valid and would be filtered through the Significance Determination Process, the same process that is being used in the new oversight program to evaluate inspection findings for licensee assessment and enforcement. Under this Option, if the allegation proves to be of high risk/safety significance, then the NRC would take prompt action. Allegations of low-risk significance would be referred to the licensee for its review and inclusion in the corrective action program, if appropriate (and without identifying the allexer, if that is requested). If, however, the allegation proved to be of such low risk significance as not to meet the threshold for the SDP, then the allegation would not be responded to by the NRC nor referred to the licensee.

- *Does one of the Options for implementing the allegations program provide more assurance that the NRC can be more certain that through information provided by allegers, plants are being operated safely?*

Option 3 -- the risk-informed allegations program -- provides the only objective safety measure of allegations. By putting allegations through the SDP, the effect of concerns can be directed immediately to the reactor oversight program, if warranted. It is through this objective safety monitor that the NRC can gain greater assurance that allegations management is resulting in safer plant operation. The current allegations program, and other subjective variations to this program, do not provide certainty that information provided through allegations results in safer plant operation. In fact, allegations can distract NRC inspectors and licensees by causing them to focus on alleged issues whether or not they have any safety significance, thereby diverting licensees and inspectors from issues important to safe reactor operation.

- *Does one of the Options for implementing the allegations program under the new oversight process enhance public confidence by increasing the predictability, consistency, clarity and objectivity of the NRC's allegations process?*

If properly implemented and explained to the public, the risk-informed allegations program offers the best opportunity to enhance public confidence in the NRC's management of allegations. Significantly, the risk-informed allegations program is the only option offered that is objective, scrutable and independent. The NRC needs to apply the same process for introducing change to the allegations program as it has with the reactor oversight process to enhance public confidence in the process -- by conducting one or more public workshops to ensure that all stakeholders understand the predictability, clarity and objectivity of a risk-informed process.

- *Does one of the Options for implementing the allegations program under the new oversight process improve the efficiency and effectiveness of the regulatory process by focusing agency resources on those issues with the most safety significance?*

Again, as discussed above, risk-informing the allegations program (Option 3) will filter out those allegations of no safety significance, and will require a response from licensees with respect to allegations of low safety significance. This approach will, through use of the SDP process, provide a transparent picture of those issues of high safety significance, and will allow both licensee and NRC resources to be allocated in a prioritized manner that is consistent with the agency's mission. Thus, under Option 3, the NRC will, by definition, improve the efficiency and effectiveness of the regulatory process by responding promptly to those issues of high safety significance.

- *Does one of the Options for implementing the allegations program under the new oversight process reduce unnecessary regulatory burden on licensees?*

This issue has been addressed above but to reiterate: as the NRC and the licensees are able to focus solely on issues of safety significance, and to filter out allegations of no safety significance, the burden on licensees will lessen as they have less low-to-no safety-significant allegations to respond to. In terms of whether a non-risk significant allegation receives an independent NRC review, the case has been made many times that such issues are better dealt with by the licensee itself rather than through an expensive, overly burdensome investigation process.

- *What Options, beyond those stated in the Commission paper, should be considered?*

The NRSRG notes that the Commission has conducted a complete and thorough examination of all options, and, as a result, has proposed a solution for an effective allegations management program that can be integrated with the reactor oversight program. As a result, the proposal in Option 3 will protect the interests of the public, licensees, and NRC alike. The NRSRG, of course, has no objection to ensuring that appropriate feedback is provided to concerned individuals. Some of the communications measures of Option 4 could be combined with the risk-informed program for this purpose.

- *Should the Commission implement any changes in the allegations program for all reactor licensees or should any changes be implemented in a pilot program before being implemented at all reactor facilities?*

The basis for Option 3, the SDP process, has already been piloted in the Oversight Program. Thus, we see no need for the "new" allegations program to be piloted prior to full implementation.

Conclusion

The NRSRG fully supports the Commission's proposal to risk-inform the allegations program and integrate that program with the reactor oversight program. The most effective way to protect allegers and ensure that inspector and licensee priorities remain focused on issues that can impact the safe operation of commercial reactors is to fully risk-inform that process. To partially risk-inform the process would still allow distraction of NRC inspectors and licensees from safety, and permit subjective judgment to control the use of resources. For the foregoing reasons, the NRSRG supports implementation of Option 3 from SECY-99-273, namely, risk-informing the allegations program.

Sincerely,



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