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Rules and Directives

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February 8, 2001

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Rules and Directives Branch
Division of Administrative Services
U.S. Nuclear Regulatory Commission
Mail Stop T6-D59
Washington, DC 20555-0001

Subject: Proposed Information Collection Initiative
(65 FR 76669, December 7, 2000)

The Nuclear Energy Institute (NEI)¹, on behalf of its industry members, is submitting these comments in response to the Nuclear Regulatory Commission's proposed information collection initiative published in the subject *Federal Register* Notice.

In summary, the Office of Nuclear Reactor Regulation (NRR) proposes that external stakeholders (e.g., licensees) voluntarily submit additional information about the impact that licensing actions and other regulatory actions have on maintaining safety and reducing unnecessary regulatory burden. The initiative states that ideal measures for maintaining safety would include changes in dose (person-rem) or changes in risk (core damage frequency), and that measures for regulatory burden reduction would include changes in licensee costs or power production capability.

The additional data obtained through this process would be used by NRR as (1) part of the prioritization process within the NRR work planning center and (2) in annual NRC reports assessing agency performance made to the Congress and the President.

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

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The NRC initiatives to maintain safety and reduce unnecessary regulatory burden are commendable. NEI believes that NRRs recent performance in reviewing and processing nuclear reactor-related licensing action requests has been quite good. We understand that NRR processes over 95 percent of licensing action requests within one year of receipt. We will continue to work with the NRC to improve the efficiency of the licensing action process while maintaining its effectiveness.

NEI believes that the information collection initiative as proposed in the subject *Federal Register* Notice is unnecessary and, if implemented, will likely result in additional burden. Furthermore, the requested information, particularly those associated with licensee costs and power production, would likely be considered sensitive business information by many licensees. Inclusion of this information in publicly available licensing action request could potentially harm a licensee in a competitive energy generation market. Many of these issues were previously discussed with the NRC at the September 20, 2000, external stakeholders meeting.

The proposed information collection initiative is a burden on licensees because, if they choose to provide the data, then the licensee must expend additional resources to compile the information and incorporate it in a licensing action request. This additional process would require further resources to gather, review, calculate and submit the data. Licensees are also concerned that any compilation of additional information in a docketed submittal would need to satisfy 10 CFR 50.9, which would require additional levels of data confirmation and verification.

It should be recognized that the type of data described in the proposed initiative is not formally developed for all licensing action requests. In many cases, a licensee proposes administrative changes, develops responses to operational issues, or seeks modification to licensing bases without necessarily performing detailed cost-benefit analyses that yield the measures sought by the proposed information collection initiative.

The proposed NRC initiative states that the voluntarily provided information will be used in the NRR work planning center to allocate NRC staff resources and for prioritization of specific work activities. We are concerned that the use of such information to prioritize licensing actions could result in inequities.

For example, if the expected benefits are overly optimistic and/or the negative consequences are underestimated, an inappropriately high priority could be assigned to a licensing action request. Similarly, licensing requests for a single unit or a single station may not "score" as high in the prioritization process as a similar request that pertains to multiple units made by a larger licensee. The NRC should not adopt administrative practices that unfairly favor some licensees over others. All licensing action requests are a priority to the licensee making the request.

In lieu of the quantitative measures suggested in the proposed initiative, NEI suggests more qualitative information be considered. For example, the measure for changes in licensee costs could be presented as negative (increased costs), neutral, positive (decreased costs), or not applicable. This qualitative information could then be used to assess how work completed by the NRR staff contributes to the agency goals of maintaining safety and reducing unnecessary regulatory burden. With respect to the other purpose of this proposed initiative (resource allocation and work prioritization), we believe that the prime factors should be licensee-identified need dates, quality and completeness of licensing action request submittals.

The proposed initiative specifically addresses two of the NRC's performance goals: maintain safety and reduce unnecessary regulatory burden. Another of the agency's goals - make NRC activities and decisions more effective, efficient, and realistic - is not independent of this proposed initiative and its purpose. The NRC should consider measures that reflect the overall performance of its staff in reviewing licensing action requests. For example, the NRC could ascertain the resources required to process a licensing action request (it may be appropriate to separately consider the various types of licensing actions). The resource requirements then could be monitored and goals established to reduce the average. Similarly, goals could be established for adhering to the schedules for processing licensing action requests.

As noted previously, NRRs initiatives to further improve its performance in maintaining safety and reducing unnecessary regulatory burden is commendable. We recommend that the NRC expand these initiatives to an integrated agency-wide endeavor that includes the Offices of Nuclear Materials, Safety and Safeguards (NMSS) and Nuclear Regulatory Research (RES).

In summary, we believe that the proposed information collection initiative is unnecessary and should be withdrawn or modified to address the concerns discussed above.

Chief, Rules and Directives Branch

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Please contact me (202-739-8080 or am@nei.org) or Fred Madden (202-739-8114 or fwm@nei.org) if you have any questions or wish to further discuss these comments.

Sincerely,

A handwritten signature in cursive script that reads "Alex Marion".

Alexander Marion

cc: Mr. Singh Bajwa, NRC
Ms. Claudia Craig, NRC