

July 26, 2002

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Martin J. Virgilio, Director
Office of Nuclear Material Safety **/RA/**
and Safeguards

SUBJECT: PROPOSED RULE TO AMEND 10 CFR PARTS 72 AND 73:
REQUIREMENTS OF EVENT NOTIFICATION

Attached for your signature is a proposed rule entitled, "Event Notification Requirements," (Attachment 1) amending U.S. Nuclear Regulatory Commission (NRC) regulations in 10 CFR Parts 72 and 73. This proposed rule would amend the NRC's regulations at 10 CFR Part 72 to change several event notification requirements that apply to an Independent Spent Fuel Storage Installation (ISFSI) and a Monitored Retrievable Storage (MRS) installation. The proposed rule would also amend safeguards event notification requirements that apply to facilities subject to Part 73, such as reactor facilities, fuel cycle facilities, ISFSIs, an MRS, licensees who possess or transport special nuclear material or spent fuel, a geological repository operations area, and the gaseous diffusion plants. With respect to both the event notification requirements and the safeguards event notification requirements, the changes are intended to align these requirements with recent changes to the power reactor event notification requirements in Part 50 made in a final rule issued on October 25, 2000 (65 FR 63769). The changes would reduce unnecessary burden through the consolidation of some notifications and lengthening the reporting period for other notifications. However, some new requirements would be added to permit the NRC to more effectively carry out its responsibilities during emergencies and in responding to public and media inquiries during events or conditions at licensees' facilities.

Background: On March 27, 2001, the staff submitted a rulemaking plan to the Commission, "10 CFR Parts 72 and 73- Conforming Requirements of Event Notification" (SECY-01-0054), to revise the event notification reporting requirements in Parts 72 and 73 to more closely align them with those of Part 50 reactor facilities. The Commission subsequently approved the staff's recommendations, in a Staff Requirements Memorandum dated April 18, 2001 (Attachment 2), directing the staff to develop a proposed rule for publication in the Federal Register. Consistent with this direction, the staff has developed the attached proposed rule.

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The current event notification reporting requirements in Part 50 require written notification within 60 days and verbal notification within 1 hour (emergency events), and 4 hours and 8 hours for some non-emergency events. The need for a 4-hour versus an 8-hour non-emergency notification is based on the urgency of the situation and the NRC's need to take prompt action.

The current event notification reporting requirements in Parts 72 and 73 are somewhat different than those in Part 50. The staff believes that to achieve consistency among these parts, some reporting requirements should be revised. The staff evaluated the issues and concerns of the Part 50 final rule, and considered its regulatory framework as a basis for concluding that similar changes to the event notification reporting requirements in Parts 72 and 73 were also warranted. The event reporting requirements of Parts 72 and 73 affect both material licensees and nuclear power plant licensees. Most of the facilities subject to the event notification reporting requirements in Parts 72 and 73 (power reactors and ISFSIs) are either physically co-located with reactor facilities or are reactor facilities. Most Part 72 licensees are also Part 50 licensees. These licensees share the same management structure and share the same emergency preparedness organization. Conforming the reporting requirements of Parts 72 and 73 with the revised requirements of Part 50 thus will reduce regulatory burden and potential confusion, would maintain safety, and would take advantage of the work already performed to relate risk to reporting requirements for these types of facilities.

The proposed regulatory changes to safeguards reports are not expected to impact security considerations. The revision to the requirements for submission of written followup safeguards reports will not affect the NRC's ability to promptly respond to safeguards events, because the written reports are not relied upon by NRC staff for prompt response to significant events, but instead the reports are used for such followup actions as considering the need for enforcement action, evaluating whether a generic communication may be necessary, and evaluating the adequacy of existing NRC regulations and guidance. Finally, the staff evaluated these proposed amendments in the aftermath of the September 11, 2001, World Trade Center event, and concluded the proposed amendments for this rule are still warranted and will not have any adverse impacts on the NRC carrying out its mission.

This rulemaking is consistent with NRC's strategic performance goals in the materials, reactor, and waste areas. First, the proposed rule would help maintain safety by ensuring that licensees promptly inform NRC and State officials of events or conditions that could adversely affect public health and safety. Second, the proposed rule might slightly decrease public confidence from the standpoint that some notifications will be delayed and others eliminated. The public may also be concerned over the additional 30 days to file a written followup report. However, it is important to note that changing the time limit from 30 to 60 days does not imply that licensees should take longer to develop and implement corrective actions. The NRC expects licensees to take corrective actions on a time scale commensurate with the safety significance of the issue. Overall, the staff believes that the proposed rule would increase public confidence in NRC actions by ensuring that the NRC can promptly and effectively respond to events or conditions at licensees' facilities including inquiries from the public, media, and other stakeholders. Third, the regulatory revisions would be expected to result in enhanced regulatory efficiency, effectiveness, and realism by making the requirements for reactors and ISFSI and MRS facilities, which are frequently co-located with reactors, more consistent; reducing the number of duplicative or supplementary reports that must be submitted by licensees and processed by the NRC; and ensuring that reports are received at a time consistent with the NRC's need for them. This proposed rule would reduce licensee burden

through elimination of some event notification reporting requirements and lengthening the times for others. The time extension is based on simplicity for reporting, importance to risk, and the required reporting time consistent with the need for prompt NRC action. Furthermore, the increased time for follow-up reporting will allow for: (1) the completion of the required root cause analyses and engineering evaluations, and fully identify corrective actions after event discovery; (2) preparation of more complete and accurate event reports; and (3) fewer event report revisions and supplemental reports thus reducing unnecessary licensee burden. Additionally, some new burdens have been added. These new burdens are necessary to permit NRC to promptly respond to degrading conditions at licensee facilities during an ongoing event. They are consistent with existing event notification reporting requirements for power reactors, currently contained in Part 50.

Notices: A notice to the Commission, that the Executive Director for Operations has signed the attached Federal Register notice, is included for the “Weekly Report to the Commission” (Attachment 3). The “Approved for Publication” and the draft Regulatory Analysis can be found in Attachments 4 and 5, respectively, of this paper. The appropriate Congressional committees will be notified.

Resources: The resources to complete and implement this rulemaking are included in the current budget.

Coordination: The Offices of Administration, Enforcement, Nuclear Reactor Regulation, and Nuclear Safety and Incident Response concur with these amendments. The Office of the General Counsel has no legal objection. The Office of the Chief Financial Officer has reviewed the proposed rule for resource implications and has no objection. The Office of the Chief Information Officer has reviewed the proposed rule for information technology and information management implications and concurs in it.

Attachments:

1. FRN of Proposed Rulemaking
2. SRM dated April 18, 2001
3. “Weekly Report to the Commission”
4. “Approved for Publication”
5. Draft Regulatory Analysis

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