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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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NUCLEAR GENERATION

April 8, 2004

Secretary
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTN: Rulemakings and Adjudications Staff

SUBJECT: Comments on "Collection, Reporting, or Posting of Information;
Availability of Draft Rule Language" (69 Fed. Reg. 8350, dated
February 24, 2004)

This letter provides comments of the Nuclear Energy Institute (NEI), on behalf of the nuclear energy industry, on draft rule language intended to clarify or revise Nuclear Regulatory Commission (NRC) regulations to reduce unnecessary regulatory burden, as described in the subject *Federal Register* notice.

NEI supports the intent of the proposed changes to regulation and recommends that the NRC proceed with rulemaking to implement them. Based on specific input from Part 50 licensees, NEI concludes that each of the proposed changes, when incorporated into NRC regulations, will have the effect of reducing unnecessary regulatory burden while maintaining an adequate level of protection of health and safety.

Specific comments on the proposed changes are enclosed. If you have any questions regarding our comments, please contact me at (202) 739-8111.

Sincerely,



Ralph L. Andersen

Enclosure

Template = SECY-067

SECY-02

Nuclear Energy Institute (NEI) Comments on Nuclear Regulatory Commission (NRC) Proposed Changes to Information Collection, Reporting, and Posting Requirements (Reference: 68 Fed. Reg. 43769, dated July 24, 2003)

General Comments

In the referenced Federal Register notice, the NRC makes available draft wording for four (4) possible changes to regulations and requests responses to specific questions regarding each of the possible changes.

In general, NEI supports the intent and agrees with the proposed scope of each of the possible changes to regulations.

Based on specific input received from Part 50 licensees, NEI concludes that each of the changes will have the effect of reducing unnecessary regulatory burden, while maintaining adequate protection of health and safety. Part 50 licensees estimate that the costs associated with implementing the proposed changes will be much less than the estimated cost savings due to burden reduction.

NEI recommends that the NRC proceed with rulemaking to implement the changes, taking into account the specific comments (below) on each of the possible changes

Specific Comments

Possible Change (1): Notifications and reports to individuals (10 CFR Parts 19.13 and 20.2205)

We suggest that NRC add language to the proposed wording for 10 CFR Part 19.13 (b) to help clarify the applicability of the "2 percent" criterion. We suggest that NRC clarify that the applicability of the criterion is limited to the occupational dose received from work activities at the specific licensee's facility, and is not applicable to the cumulative annual dose received from work activities at all (multiple) licensee facilities during the year.

The 2 percent criterion represents a reasonable threshold for reporting dose. In fact, this threshold is 1/5 of the threshold at which a licensee is required to individually monitor occupational dose and is equivalent to the NRC limit on public dose.

Part 50 licensees have estimated a cost savings of \$1,000 to more than \$5,000 per year due to burden reduction associated with the proposed change.

We suggest that NRC does not need to add a specific requirement that licensees periodically notify workers of their right to request their dose report because this requirement is already generally stated in 10 CFR Part 19.11(a)(1) and specifically stated in 10 CFR Part 19.12(a)(6).

Possible Change (2): Labeling containers (10 CFR Parts 20.1904 and 20.1905)

The language being considered maintains adequate controls for radioactive materials in containers within facilities licensed under 10 CFR Part 50. The stated purpose of the existing container labeling requirements in 10 CFR Part 20.1904 is “to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.” Within Restricted Areas of Part 50 licensees, adequate protection of individuals, including individuals who may handle, or work within the vicinity of, containers is provided by an extensive system of radiation safety controls that will not be affected by the possible change.

Such controls typically include, for example:

- Unescorted access to restricted areas is limited to individuals who are trained in radiation safety practices.
- Restricted Areas that contain significant sources of exposure are located within Protected Areas (per 10 CFR Part 73), which provides a substantial additional layer of physical control over access.
- Individuals gaining unescorted access to Restricted Areas are individually monitored with an individual monitoring device (per 10 CFR Part 20.1501) and, and additionally, with an individual dose monitoring device that indicates the accumulated dose to the individual.
- Individuals gaining unescorted access to Restricted Areas that contain significant sources of exposure do so in accordance with administrative requirements described in written procedures and radiation work permits (or equivalent controls).
- Specific locations within Restricted Areas that contain significant sources of exposure are posted (per 10 CFR Part 20.1902), as radiation areas, high radiation areas, very high radiation areas, airborne radioactivity areas, and radioactive materials areas. In addition, areas containing radioactive materials that pose a potential for the spread of contamination are posted as “contamination areas.”

- At the points of egress from Restricted Areas, personnel and objects, including containers, are individually monitored for the presence of radioactive materials prior to being released from the Restricted Area. In addition, monitoring devices are placed at key locations within Restricted Areas for routine monitoring of individuals and objects for the presence of radioactive materials
- Trained and qualified radiation safety staff perform routine surveys and monitoring of locations and objects within Restricted Areas to determine levels of radiation and detect the presence of radioactive materials.

These controls form an integrated approach to radiation safety that adequately protects individuals in Restricted Areas at Part 50 licensee facilities, including individuals that handle or use containers, or work in the vicinity of containers. The possible change, involving an exemption to 10 CFR Part 20.1904 for Part 50 licensees, does not affect any of the aforementioned controls that provide an adequate level of protection.

The proposed wording in the possible change to regulation would continue to require labeling of containers being removed from posted areas, including the specific, detailed information on the labels per 10 CFR Part 20.1904. Such specific, detailed information does not substantially contribute to protection of individuals that handle or use containers, or work in the vicinity of containers, within Restricted Areas at Part 50 licensee facilities, when considering the integrated program of radiation safety controls described above that will not be affected by the possible change. Continuing this requirement for containers within Restricted Areas represents an unnecessary regulatory burden.

We suggest that the proposed wording in 50.xx(b)(3) be changed from “before being removed from the posted area,” to “before being removed from a Restricted Area.”

The proposed wording in 50.xx(b)(1) would require that containers in areas posted in accordance with 10 CFR Part 20.1902 be “conspicuously marked...commensurate with the radiological hazard.” Our understanding of “commensurate with the radiological hazard,” as proposed in the possible change, is that the requirement would only apply to containers in areas that are not otherwise adequately posted and controlled to “permit individuals handling or using the containers (i.e., while in the posted and controlled area) to take precautions to avoid or minimize exposure.” Our understanding is based on the premise that to impose a redundant requirement for “conspicuous marking” of containers within a posted and controlled area, where such marking does not substantially contribute to the radiological protection of individuals within the posted and controlled area, would represent an unnecessary regulatory burden.

For example, a container within an area posted and controlled for radiation and contamination hazards should not require “conspicuous marking,” if the container does not pose an additional radiological hazard outside the scope of the protection being provided by the area posting and controls. Alternatively, if a container within a posted and controlled radiation area would pose a contamination hazard if opened, then the container should be “conspicuously marked” to reflect the hazard that is not within the scope of the existing area posting and controls.

In order to clarify this issue, we suggest that the NRC either revise the wording in the possible change, or alternatively, address the issue in supplemental information accompanying a proposed rule and in regulatory guidance for implementing a final rule.

We also suggest that NRC include the possible change as an “exemption to labeling requirements” in 10 CFR Part 20.1905, rather than in Part 50, to assure better clarity and consistency within the existing regulations.

Taking into account the foregoing comments, Part 50 licensees have estimated a cost savings of \$10,000 to more than \$25,000 per year due to burden reduction associated with the proposed change.

The nuclear industry does not have specific information available from which to be able to provide a perspective of the applicability of the proposed change for materials licensees.

Possible Change (3): Determination of prior occupational dose (10 CFR Part 20.2104)

The proposed change will continue to provide adequate protection of radiation workers because the requirement will be maintained to determine prior occupational dose for workers that are to be involved in a planned special exposure. For all other workers, adequate protection is provided by annual occupational dose limits that do not require determination of prior occupational dose.

Part 50 licensees have estimated a cost savings \$2,000 to more than \$15,000 per year due to burden reduction associated with the proposed change.

Possible Change (4): Definitions (10 CFR Part 20.1003)

The proposed definition is consistent with the technical basis of the current regulations in 10 CFR Part 20 and helps incorporate the information provided in Regulatory Issue Summary 2003-04.