

## Part 70, Appendix A, Reportable Safety Events – Rationale for Reporting Period

The Part 70 Working Group on Appendix A, Reportable Safety Events (the Working Group) agreed that timely reporting of Part 70, Appendix A reportable events to the U.S. Nuclear Regulatory Commission (NRC) is important. However, the Working Group had discussions about whether there was a need to change the required initial reporting times for some of the events specified in Appendix A.

Some reasons that were discussed that support a re-examination of reporting requirements for fuel cycle facilities were as follows:

- (1) Situations or events can occur at fuel cycle facilities where detailed, final or validated information is not immediately available or attainable by the reporting deadline. Such situations or events are those where a relevant analysis, assessment, measurement or investigation has not been completed or dynamic situations which have not yet attained or maintained a requisite level of stability and predictability. It often can be difficult for facilities to complete their evaluations in a short amount of time to determine whether an actual safety event that must be reported to the NRC has occurred.
- (2) Appendix A can be problematic for facilities because (a)2, (a)3, and (a)5 are difficult for facilities, in general, to quickly access.
- (3) Industry had some misgivings about reporting events and then retracting them when they completed their analyses because it may lead to an erosion of public confidence in the facilities ability to control or determine what events should be reported to the NRC in a timely manner.

**Comment:** This is directly related to our debate with regard to what is time zero with regard to the "discovery" or determination of a reportable event or condition.

**Comment:** Or assess?

**Comment:** Additional concerns have been discussed including the impact on the LPR or Licensee performance assessment

This led to further related discussion regarding the when the 1-hour or 24-hour time period for reportability begins? NRC tried to clarify with its draft rationale (item 6 in the Chris Tripp Table). However, the following comments resulted from the discussion:

- (1) The definition of an event or condition should be clarified
- (2) What constitutes a failure of a performance criterion?
- (3) What does "discovery" mean?
- (4) Who is considered a "qualified" or "cognizant" person to discover an event or determine that a situation should be evaluated?

The Working Group decided to research past rulemakings and other documents, such as regulatory guides (i.e., NUREG-1022) to determine if there are insights regarding time requirements for reporting specific types of events to the NRC. The Working Group believes that this may assist them in developing a common understanding of Appendix A event reporting requirements.

The following pages contain a summary of the documents that were reviewed and any associated information related to event time reporting rationale. The summary is grouped in two categories: (1) those documents that contain time reporting rationale and (2) those that contain very little or none.

**No Reporting Time Duration Rationale**

- (1) ML9920000030, RIN 3150-AF22 (pp. 31-32) for the June 2, 1999 Proposed rule - I believe Appendix A is identical to the current rule.
- (2) ML9918800110, SECY-98-185, July 30, 1998 (pp. 26-30, 55-57) for the draft proposed rule (not issued for public comment)
- (3) Part 70, Appendix A.
- (4) Statement of Consideration for Part 70, Federal Register, September 18, 2000 (Volume 65, Number 181, pages 56211 through 56231).

From these documents it is clear that Appendix A expands upon Bulletin 91-01 (see document (3) below) by including non-criticality events and updates the Bulletin to incorporate the ISA methodology. The 91-01 supplement indicates what has to be reported in the two reporting time frames - immediate (4-hour) and 24-hour - which was based upon licensees' commitments in response to Bulletin 91-01.

The first document also states that 1-hour reports are intended for high-consequence events that have occurred or that are more likely to occur due to loss of controls. 24-hour events are for intermediate-consequence events or other events that may be of concern to the NRC.

**Reporting Time Duration Rationale  
PART 50**

- (1) 10 CFR 50 RIN 3150-AF98, Reporting Requirements for Nuclear Power Reactors – Advance Notice of Proposed Rulemaking, Federal Register: July 23, 1998 (Volume 63, Number 141) (Proposed Rules) (pages 39522-39526).
- (2) Part 50 Final Rule on Reporting Requirements for Nuclear Power Reactors-issued October 25, 2000 (65 FR 63769).
- (3) Bulletin 91-01 and Bulletin 91-01, Supplement 1 for reporting the loss of criticality controls (attached)

**Comment:** Although editorial not sure why this reference to 91-01 is here listed under the heading of Part 50. Bulletin 91-01 is only in reference to Part 70 applications. This listing may be more appropriate in the above section "No Reporting Time Duration Rationale"

Regarding Part 50 event reporting, staff recognized that there was a need to revise the current rules to (1) correct weaknesses, including elimination of reporting on events of little or no safety significance, (2) better align the rules with the NRC's current needs, including the move toward risk-informed regulation, and (3) clarify the definition of conditions outside the design basis of the plant that require reporting. A rulemaking plan to address these areas was prepared.

The NRC amended its regulations on notification and reporting requirements for operating nuclear power plants. The changes retained reporting for significant events that the agency needs to review in its efforts to identify and resolve safety issues. However, the changes reduced or eliminated the unnecessary reporting burden associated with events of little or no safety significance. Overall, these changes help the NRC and its licensees to better focus their efforts on the most safety significant issues.

The amendments revise the requirements (10 CFR 50.72 and 50.73) to reduce the reporting burden associated with events of little risk significance. They also extend the reporting times consistent with the need for prompt NRC action.

The following insights may be of particular interest to the Working Group because they could be applied to other regulations: For those events requiring immediate NRC action, such as emergency declarations, reports to the NRC are required within one hour. For those events where there may be a need for the NRC to take a reasonably prompt action or respond to heightened public concern, such as events that involve the health and safety of the public or onsite personnel for which a news release is planned or notification to another government agency has been or will be made, reports to the NRC are required within four hours. In the case of events where there may be a need for NRC action within a day, such as initiating a special inspection, reports will be required within eight hours. An example of such an event would be an event or condition that could keep a system from fulfilling its safety function.

**Comment:** This should be covered by Emergency Plan requirements ala Reg Guide 3.67 and 10CFR70.22(i)(3). They should not be considered for reporting IAW 10CFR70 app. A

**Comment:** While I may agree with this on principle what is the regulatory reference for such a required report in this time frame? Part 50?

**Comment:** Same comment/question.

Written licensee event reports will be due within 60 days after discovery of a reportable event or condition. The message to our stakeholders should be very clear: The NRC is not relaxing reporting requirements for those events where there may be a need for immediate action by the NRC.

Experience has indicated that there is some difficulty in interpreting event reporting requirements and definitions and some inconsistency in reporting thresholds. A 1990 survey on the impacts of NRC regulation and subsequent event reporting workshops also indicated a need for improved reporting guidelines. NUREG-1022, Revision 1, "Event Reporting Guidelines, 10 CFR 50.72 and 50.73," was prepared to respond to that need. Primarily, the staff edited and combined the information contained in NUREG-1022 and its Supplements 1 and 2, the Statements of Considerations for 10 CFR 50.72 and 50.73, and other published reporting guidance, such as that contained in generic letters, bulletins, and information notices. Clarifications and additions were made as needed. A draft of Revision 1 of NUREG-1022 was published for comment in 1991, the issues raised were discussed at public meetings in 1992 and 1993, and a second draft was published for comment in 1994.

Revision 1 was published in final form on January 28, 1998. The purpose of this revision is to help ensure that events are reported as required by improving the guidance, including clarification and consolidation of applicable existing guidance into a single reference document. On February 6, 1998, a *Federal Register* notice was published to announce the availability of the report and summarize the responses to public comments on the draft (63 FR 6327).

**10 CFR 72.75, 10 CFR 73.71, and APPENDIX G to Part 73**

The NRC promulgated amendments to its event reporting requirements in 10 CFR 72.75, 10 CFR 73.71, and Appendix G to Part 73 to: make conforming changes, where appropriate, to align them with the current reporting requirements of a 10 CFR Part 50 final rule issued October 25, 2000 (65 FR 63769); base revised reporting requirements on importance to risk, so the reporting times will be consistent with the time that information is needed for prompt NRC action; and eliminate the unnecessary reporting

burden associated with reporting events of little or no safety significance, and to improve NRC efficiency and effectiveness, while maintaining public confidence through the timely communication of information on recently occurring, or ongoing, events.

**Comment:** We strongly support these principles but believe they may have been lost either in the interpretation or implementation of the App. A reporting process. As we have noted we believe there have been examples of reports that are of "administrative" issues that do not warrant reports via the 1 hour or 24 hour reporting criteria.

The amendments were specific to its event notification regulations in 10 CFR Part 72 that apply to Independent Spent Fuel Storage Installations (ISFSIs) and Monitored Retrievable Storage (MRS) facilities to more closely align them with those of reactor facilities. The proposed rule also contained proposed amendments to the safeguards event notification requirements that apply to facilities subject to 10 CFR 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.

**Comment:** Perhaps move this or repeat this in the recommendations section of this document

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, staff concluded that the increased time for follow-up reporting will allow for: (1) the completion of the required root cause analyses and engineering evaluations, and full identification of 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. And third, the staff believes that overall the rule will 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. The rule might, however, raise a concern with some of the public 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 follow-up 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."

**NRC OFFICE OF STATE AND TRIBAL PROGRAMS**

March 22, 2004, Event Reporting Self-Assessment, Final Report

This document states that operating experience is an essential element in the regulatory process for ensuring that licensed activities are conducted safely. Reporting operating incidents and events helps to identify deficiencies in the safe use of AEA radioactive material and to ensure that corrective actions are taken to prevent recurrence. A 1993 General Accounting Office (GAO) report identified the compilation and presentation of national materials data as an area for improvement and recommended that NRC take appropriate action to ensure that the information on radiation events is reported completely and accurately. Further, reliable information should be available to NRC, the Congress, and the States to identify patterns and trends and determine appropriate changes for the programs.

Event information is reported to Congress annually and used to demonstrate that the Agency and the States are meeting the safety and security goals and the corresponding strategic outcomes in the NRC's strategic plan. NRC conducts reviews of all operating experience reports, from both NRC licensees and Agreement States, to identify safety concerns early, and to further evaluate individual safety concerns for any generic safety issues (GSIs) that could apply to a broader class of licensees. Prompt reporting of event information, including 30 day report information, and updates to events, helps the staff identify or detect possible safety concerns as early as possible. An event or condition could, by itself appear insignificant, but when compared with national information, could become a generic concern. In-depth analysis of event report data may result in the identification of actions that could lead to improvements in the effectiveness of NRC and Agreement State regulatory programs. Event analysis may also result in the issuance of information notices warning of possible safety concerns and assessment of the need for regulatory changes or revisions. Feedback is provided to Agreement State regulators, the industry, and the public. NRC publishes a quarterly report that presents information on the results of statistical analysis of event data and any significant or generic issues or concerns. The Nuclear Material Events (NMED) Database Quarterly Report is available in electronic form at the NMED Internet Website: <https://nmed.inl.gov>. NRC's Office of Nuclear Material Safety and Safeguards (NMSS) publishes a nuclear material newsletter, NMSS Licensee Newsletter, NUREG/BR-0117, that includes information on safety concerns identified during that quarter.

This document provides insights to why NRC needs certain information reported in a specific period of time, but for the most part the focus is retrospective.

#### CONCLUSION:

It appears that Part 70, Appendix A reporting requirements are **not** consistent with those of Part 50, Part 72, Part 73, and the Nuclear Material Events Database; however there is limited guidance for fuel cycle facilities as to what specific types of events fall into each of the four time reporting categories:

- (1) 1 hour (emergency declaration); (Note: For fuel facilities in terms of the type of events considered as emergencies requiring reportability within one hour of discovery, guidance is found in Appendix A to Reg. Guide 3.67)
- (2) Within 4 hours (for those events where there may be need for the NRC to take a reasonably prompt action or respond to heightened public concern, such as events that involve the health and safety of the public or onsite personnel for which a news release is planned or notification to another government agency has or will be made;
- (3) 8 hours (those cases of events where there may be a need for NRC action within a day, such as initiation of special inspection)
- (4) Within 24 hours

Also, Part 70, Appendix A requires Licensee to provide a follow-on report within 30-days for events that require 24 hour reports. This is not consistent with the 60- day follow-on reports under the other Parts of the regulations discussed above. Reactor facilities have resident inspectors, but not all fuel cycle facilities have resident inspectors. However, NRC can send inspectors to a site any time during the follow-up.

#### RECOMMENDATION:

Certain reports are needed promptly because they involve events where there may be a need for the NRC to respond to heightened public concern or to take action. Initial reporting times for other reports may be extended, consistent with the time when the reports are needed for NRC action. The goal is to have the requirements as risk-informed, consistent with NRC policy to develop risk-informed regulations. A regulatory guide, similar to NUREG-1022 for Reactors, may need to be developed for Part 70 event reporting to clarify what types of events need to be reported to the NRC.

The staff should re-evaluate current Part 70 Appendix A regulations to identify areas where event reporting requirements can be risk-informed, ~~simplified or eliminated~~. For example, the time limit for reporting could be adjusted based on the safety significance of the event and the need for NRC's immediate action. Furthermore, the threshold of what needs to be reported could be examined, as well.

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