

June 18, 2012

MEMORANDUM TO: Shana R. Helton, Chief  
Rulemaking Branch  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

FROM: Tara Inverso, Project Manager **/RA/**  
Rulemaking Branch  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF PUBLIC MEETING ON CUMULATIVE EFFECTS  
OF REGULATION PROCESS CHANGES

The U.S. Nuclear Regulatory Commission (NRC) held a Category 3 public meeting on May 31, 2012, to discuss the Cumulative Effects of Regulation (CER) process changes. The meeting was held at the NRC's headquarters location in Rockville, MD. The meeting was attended by 40 individuals primarily representing industry, agreement states, and the NRC. Of the 40 participants, 14 participated in the meeting through audio teleconferencing and Webinar. There was much discussion amongst the meeting attendees on several topics. The NRC made no regulatory commitments. Following the meeting, the Nuclear Energy Institute submitted a letter dated June 15, 2012, to the NRC summarizing the key points made by industry representatives (Enclosure 3; NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML12170A660).

The major areas of discussion are summarized as follows:

1. Generic Stakeholder Perspectives

There was considerable discussion throughout the meeting regarding the generic application of the CER process. Some of the key insights included:

- a) The use of a template early on in the rulemaking process could help define the viability/priority of a new rulemaking relative to ongoing regulatory actions (e.g., orders, Title 10 of the *Code of Federal Regulations* (10 CFR) 50.54(f) requests, generic communications).
  1. Such a template could evaluate the new rulemaking against specific criteria (e.g., safety, risk, compliance, regulatory relief); a rulemaking would need to meet one or more criterion to proceed.

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2. NEI offered to lead the development of a generic template, working in a public forum with the NRC working group and steering committee as necessary.
  - b) Rulemaking is just one small part of the regulatory picture; relative prioritization of activities should include all regulatory actions, including inspections.
  - c) When addressing CER, it is necessary to consider impact on the individual plants, a fleet of plants, and the industry as a whole. Participation and implementation challenges are different at different levels.
  - d) A well defined problem statement early in the process is a must.
  - e) If regulatory actions result in a cumulative effect, there are three options: 1) delay issuance of the rule; 2) look at site-specific implementation timelines; and 3) use of enforcement discretion or exemptions.
  - f) The NRC should reconsider whether CER should be applied to rules incorporating voluntary consensus standards.
  - g) The industry provided two graphics as visualizations of CER. These handouts are publicly available in ADAMS under Accession No. ML12153A020.
  - h) The NRC could obtain insight on CER in Canada's Red Tape Reduction Committee's report, "Too Much of a Good Thing – Options Paper on Intradepartmental/Interdepartmental Cooperation and Mitigating Cumulative Regulatory Burden," available at: <http://www.reduceredtape.gc.ca/heard-entendu/summary-sommaire/mgt-lmm-eng.asp>

## 2. CER questions in the Proposed Rule

The attendees discussed the specific questions on CER that will be included in Federal Register notices for proposed rules. The feedback obtained on this topic is below:

- a) The specific questions should seek feedback on the impact of other agencies' activities on the rule.
- b) All resources, especially specialized skill sets, must be considered rather than an exclusive focus on schedule considerations.
- c) Questions should also be asked during the regulatory basis stage.

## 3. Public Meetings on Implementation During the Final Rule Stage

This discussion on public meetings on implementation during the final rule stage resulted in the following feedback:

- a) The public meeting on implementation should be the default approach, but, may not be necessary in all cases.

- b) Frequent (and early) interaction is key.

The attendees also expressed frustration at changes that occur during concurrence on the draft final rule. The attendees noted that Commission briefings could be a tool to ensure external stakeholder views can be considered at the final rule stage.

#### 4. Applying Risk Insights to Prioritize Regulatory Actions

The attendees discussed ways in which the template/checklist could be used to prioritize regulatory actions. In addition, the following items were noted:

- a) The attendees expressed interest in the NRC making the Common Prioritization of Rulemaking (CPR) process priorities visible.
- b) The CPR process should include a weighting factor for rules that provide regulatory relief since under certain circumstances such relief may enable licensees to use resources more efficiently. (The NRC noted that regulatory relief is currently considered in the external factor of the CPR.)
- c) The public meeting on implementation could identify implementation issues at specific plants.
- d) Priorities should be re-evaluated at several points throughout the rulemaking process.

#### 5. Quantifying the Cumulative Impacts of Regulation

The attendees agreed that quantifying the cumulative impacts of regulation is challenging, and suggested that qualitative assessments should not be overlooked. Additional feedback included:

- a) Template would likely be a qualitative tool.
- b) It is challenging to represent the totality of activities, including inspections.
- c) The Institute of Nuclear Power Operations has a process in place to assess the impacts of regulatory actions.

#### 6. Consideration of Other Regulatory Impacts

In addition to the generic statement that rulemaking is just one small piece of the regulatory picture, the attendees made the following points:

- a) 10 CFR 50.54(f) letters can be more resource-intensive than rulemakings.
- b) Generic communications can change the licensing basis of plants.
- c) The Regulatory Issues Resolution Protocol could be used as a tool to address these regulatory actions.

#### 7. Concurrent Rule and Guidance Publication

In general, the attendees indicated that the process of publishing guidance and rules concurrently is working well. One attendee specifically noted that the 10 CFR Part 37 rulemaking is a good example of the concept working well. The attendees also noted:

- a) Stakeholders become frustrated when, after significant interaction throughout the process, major changes occur in the concurrence process (without notification of, nor interaction with, external stakeholders).
- b) In instances where industry expresses a desire to develop guidance, and submit that guidance for NRC review and potential endorsement, NEI will provide a timeline, and ensure that timeline is met.

#### 8. Post-Fukushima Activities and CER

The meeting concluded with a discussion of post-Fukushima and CER. Stakeholders gave the following feedback:

- a) NEI noted that the industry is concerned with the following items:
  - 1. If a future rulemaking incorporates the requirements in the Orders, will other items be added? (Staff responded: Orders are not codified, but made generically applicable, and changes can always happen during the rulemaking process.)
  - 2. Is the high volume of post-Fukushima activities causing licensees' focus to shift away from good practices?

- b) The implementation schedule for the post-Fukushima activities short cycles some facilities based on their planned outage schedules.
- c) Should the requirements of the post-Fukushima activities apply to plants that have few years remaining in their operating license and that are not planning to renew their licenses?
- d) There is inadequate out-reach to materials licensees and fuel cycle facilities; those licensees are unsure of their next steps.

In response to the stakeholder discussions on CER impacts from Fukushima lessons-learned activities, NRC stated that safety is always the first and foremost concern.

Enclosure:

1. Attendee List
2. NRC Presentation Slides
3. NEI Letter

- b) The implementation schedule for the post-Fukushima activities short cycles some facilities based on their planned outage schedules.
- c) Should the requirements of the post-Fukushima activities apply to plants that have few years remaining in their operating license and that are not planning to renew their licenses?
- d) There is inadequate out-reach to materials licensees and fuel cycle facilities; those licensees are unsure of their next steps.

In response to the stakeholder discussions on CER impacts from Fukushima lessons-learned activities, NRC stated that safety is always the first and foremost concern.

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DATE	6/14/2012	6/14 /2012	6/18/2012

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### LIST OF MEETING ATTENDEES

Name	Organization
Jennifer Borges	NRC
Alex Marion	NEI
Janet Schlueter	NEI
John McCann	Entergy
Robert Link	AREVA
Tim Reed	NRC
Greg Halnon	First Energy
Shana Helton	NRC
Mekonen Bayssie	NRC
Merri Horn	NRC
Margaret Stambaugh	NRC
Scott Sloan	NRC
Fred Schofer	NRC
George Tartal	NRC
Kristen Lipuma	NRC
James Firth	NRC
Howard Benowitz	NRC
Jeremy Wachutka	NRC
John Biddison	NRC
Bret Leslie	NRC
Michael Mayfield	NRC
Stewart Schneider	NRC
Daniel Doyle	NRC
Serita Sanders	NRC
Jake Zimmerman	NRC
Tara Inverso	NRC
Nichole Glenn	NRC
Michael Johnson	NRC
Thomas Hafera	Worley Parsons
Rusty Lundberg	Utah Division of Radiation Control
Jason L. Churchill	CNSC
Tom Houghton	Certrec Corporation
Jennie Eckholt	Xcel Energy
Mike Stephens	Florida Bureau of Radiation Control
Leslie Collins	Westinghouse
Gordon Clefton	NEI
Georgia Thu	ICF International
Douglas Peterson	APS
William Kinsella	NCSU
Robert MacDougall	NRC
Paula Anderson	Xcel Energy
Terry Pickens	Department of Health