

NUCLEAR REGULATORY COMMISSION

[NRC-2011-0237]

Event Reporting Guidelines

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG-1022, Revision 3; notice of availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued NUREG-1022, Revision 3, "Event Reporting Guidelines: 10 CFR 50.72 and 50.73." The NUREG-1022 contains guidelines that the NRC staff considers acceptable for use in meeting the event reporting requirements for operating nuclear power reactors. Revision 3 to NUREG-1022 incorporates clarifying revisions to the guidelines.

DATES: The effective date of NUREG-1022, Revision 3, is July 1, 2013.

ADDRESSES: Please refer to Docket ID **NRC-2011-0237** when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly-available, using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2011-0237**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may access publicly-available documents online in the NRC Library at

<http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. NUREG-1022, Revision 3 may be found in ADAMS under Accession No. ML13032A220.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Timothy Kobetz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1932, e-mail: Timothy.Kobetz@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 13, 2011 (76 FR 63565), the NRC issued a Federal Register notice requesting public comment on the draft Revision 3 to NUREG-1022. Fourteen comment submissions from utilities or industry groups were received. The comment submissions are available under ADAMS Accession Nos.: ML11342A057, ML11353A269, ML11343A027, ML11347A428, ML11350A1132, ML11350A108, ML11350A109, ML11353A408, ML11353A409, ML11353A410, ML11353A411, ML11361A433, ML12005A210, ML12006A205, and ML12023A039. The NRC response to comments on draft Revision 3 of NUREG-1022 may be found in ADAMS under

Accession No. ML12216A191. A summary of the major comments and how the NRC addressed those comments in the final version of NUREG-1022, Revision 3, is as follows:

- “Events or Conditions That Could Have Prevented Fulfillment of a Safety Function.” [50.72(b)(3)(v) and 50.73(a)(2)(v)] – Systems within scope. The comments indicated that the position found in the draft Revision 3 to NUREG-1022 constituted an NRC change in position in that the proposed position was contrary to discussions found in the Federal Register notice for the rule and RIS 2001-14. Upon further review, the NRC agrees. The final position is revised to be consistent with the positions found in the Federal Register notice associated with the rule, Regulatory Issue Summary 2001-14, and current guidance found in NUREG-1022, Revision 2. Systems within scope include only safety-related SSCs required by the Technical Specifications to be operable that are intended to mitigate the consequences of an accident as discussed in Chapters 6 and 15 of the Final Safety Analysis Report (or equivalent chapters).

- “Events or Conditions That Could Have Prevented Fulfillment of a Safety Function.” [50.72(b)(3)(v) and 50.73(a)(2)(v)] – Impact of Technical Specification on reportability. The comments indicated that the position found in the draft Revision 3 to NUREG-1022 constituted a change in NRC position. The comments also indicated that the changes, if implemented, will have the effect of requiring licensees to report events or conditions as a “loss of safety function” where no function is lost since a system may be declared inoperable and still be capable of providing the function relied upon in the plant’s safety analysis. Upon further review, the NRC disagrees and the position found in the draft Revision 3 to NUREG-1022 is retained in the final version. For systems within scope, the inadvertent TS inoperability of a system in a required mode of applicability constitutes an event or condition for which there is no longer a reasonable expectation that equipment can fulfill its safety function. Therefore, such events or conditions are reportable.

- Reporting of Historical Events that Are Not Ongoing at the Time of Discovery under 10 CFR 50.72(a)(1)(ii). The comments indicated that the position found in the draft Revision 3 to NUREG-1022 constituted a change in NRC position. The comments also indicated that the reporting of historical events is a change that is inconsistent with the previously stated purposes for ENS notifications, which are to allow the NRC to determine whether immediate response is needed to ongoing events and to keep external stakeholders apprised of emerging events. Upon further review, the NRC disagrees and the position found in the draft Revision 3 to NUREG-1022 is retained in the final version. With the exception of “Events or Conditions that Could Have Prevented Fulfillment of a Safety Function,” (due to specific language found in 10 CFR 50.72(b)(3)(v)), and 10 CFR 50.72(a)(1)(ii) requires notifications for any event that occurred within 3 years of the date of discovery, even if the event was not ongoing at the time of discovery.

- Deletion of 10 CFR Part 21 guidance. The comments indicated that deletion of 10 CFR Part 21 guidance will result in no guidance being available for defect reporting. Upon further review, the NRC partially agrees with the submitted comments. The 10 CFR Part 21 guidance remains deleted in the final version of NUREG-1022, Revision 3, however, this Federal Register notice contains additional information below on the matter.

It should also be noted that an NRC employee non-concurred on the document and the employees' concerns and the agency disposition may be found under ADAMS Accession No. ML12363A061. The non-concurrence was in regard to systems within scope of “Events or Conditions That Could Have Prevented Fulfillment of a Safety Function” [50.72(b)(3)(v) and 50.73(a)(2)(v)].

Discussion

NUREG-1022 contains guidelines that the NRC staff considers acceptable for use in meeting the reporting requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.72

and 10 CFR 50.73. Revision 3 to NUREG-1022 incorporates revisions to the guidelines for the purpose of clarification. A discussion of the changes in NUREG-1022, Revision 3, may be found in the "Discussion of Changes" document (ADAMS Accession No. ML12216A185). Any changes in NUREG-1022, Revision 3, that are not discussed in the "Discussion of Changes" document are to be considered editorial in nature and should not be construed to have any regulatory or technical significance. The "Discussion of Changes" document also contains a list of public meetings held during the NUREG-1022 revision process.

It should be noted that NUREG-1022, Revision 2, Section 5.1.8, "10 CFR Part 21 Reports," has been deleted because the NRC staff is currently evaluating the need for potential rulemaking associated with 10 CFR Part 21 reports. The current NRC requirements and staff positions have not changed (i.e., stakeholders can use positions found in the 10 CFR Part 21 FRN and NUREG-1022, Revision 2, while the NRC determines the course of action associated with 10 CFR Part 21).

NUREG-1022, Revision 3, will become effective July 1, 2013. The reportability of newly discovered events or conditions (whether on-going or that may have occurred within 3 years prior to discovery) on or after the effective date will be evaluated by the staff using the guidance in NUREG-1022, Revision 3.

Backfitting and Issue Finality

The NRC has determined that the Backfit Rule, 10 CFR 50.109, "Backfitting," does not apply to the issuance of the revised guidance in NUREG-1022, Revision 3. The revised guidance in NUREG-1022, Revision 3, addresses compliance with the information collection and reporting requirements in 10 CFR 50.72 and 10 CFR 50.73. The Backfit Rule does not apply to information collection and reporting requirements. Therefore, the NRC has not prepared a backfit analysis for the issuance of Revision 3 to NUREG-1022.

In addition, the NRC has determined that issuance of the revised guidance in NUREG-1022, Revision 3, is not inconsistent with any of the issue finality provisions in 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants." Those issue finality provisions do not apply to information collection and reporting obligations imposed on operators of nuclear power plants. In addition, the issue finality provisions in 10 CFR Part 52 do not apply to prospective applicants. As of the issuance of this revised guidance, there are no holders of combined licenses under 10 CFR Part 52 that are currently protected by 10 CFR Part 52 issue finality provisions relevant to operation (*i.e.*, the period after the Commission has made the finding under 10 CFR 52.103(g)). Therefore, the NRC is not precluded from issuing NUREG-1022, Revision 3, by any of the 10 CFR Part 52 issue finality provisions.

Regulatory Analysis

The NRC performs regulatory analyses to support many NRC actions that affect nuclear power reactor and nonpower reactor licensees. The regulatory analysis process is intended to be an integral part of the NRC's decisionmaking that systematically provides complete disclosure of the relevant information supporting a regulatory decision. The NUREG/BR-0058, Revision 4, "Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission," issued September 2004 (ADAMS Accession No. ML042820192) sets forth the NRC's policy for the preparation and the contents of regulatory analyses. As discussed in Section 2.2 of NUREG/BR-0058, Revision 4, mechanisms used by the NRC staff to establish or communicate generic requirements, guidance, requests, or staff positions that would affect a change in the use of resources by its licensees should include an accompanying regulatory analysis. Some changes found in NUREG-1022, Revision 3, can be construed as offering new positions or possibly affecting licensee resources. As a result, the staff determined that it should perform a

regulatory analysis in order to provide complete disclosure of the relevant information supporting decisions associated with changes found in NUREG-1022, Revision 3. The final regulatory analysis can be found in ADAMS under Accession No. ML12216A186. Some of the comments contained within the fourteen comment submissions were comments pertaining to the Draft Regulatory Analysis (ADAMS Accession No. ML11116A168) that was issued along with the Draft NUREG-1022, Revision 3. A summary of the major/key comments and how the NRC addressed those comments in the final version of the regulatory analysis, is as follows:

- The draft regulatory analysis is inadequate in that no discussion on the deletion of 10 CFR Part 21 guidance was presented. Upon further review, the NRC disagrees. A regulatory analysis on removal of 10 CFR Part 21 discussions is not required since, as indicated in this Federal Register notice, the current NRC requirements and staff positions have not changed.
- The draft regulatory analysis is inadequate in that there are no specific discussions on changes associated with (1) “Events or Conditions That Could Have Prevented Fulfillment of a Safety Function” [50.72(b)(3)(v) and 50.73(a)(2)(v)] – Impact of Technical Specification on reportability, and (2) Reporting of Historical Events under 10 CFR 50.72(a)(1)(ii). The regulatory analysis provides neither any analysis to justify the changes nor does it attempt to assess the potential impact(s) of the changes. Upon further review, the NRC disagrees. The NRC does not consider the positions found in NUREG-1022, Revision 3 to be changes in staff position.
- The draft regulatory analysis on “Events or Conditions That Could Have Prevented Fulfillment of a Safety Function” [50.72(b)(3)(v) and 50.73(a)(2)(v)] – Systems within scope, is inadequate in that the regulatory analysis underestimates the impact of the change on plant resources. Upon further review, the NRC agrees. The impact to stakeholders should now be minimal as the final NUREG-1022, Revision 3 position is revised to be consistent with the positions found in the Federal Register Notice associated with the rule, Regulatory Issue Summary 2001-14, and current guidance found in NUREG-1022, Revision 2. The regulatory

analysis provides a complete disclosure of the relevant information supporting decisions associated with changes found in NUREG–1022, Revision 3.

Dated at Rockville, Maryland, this 5th day of February 2013

For the Nuclear Regulatory Commission.

/RA/

Ho K. Nieh, Director,
Division of Inspections and Regional Support,
Office of Nuclear Reactor Regulation.

analysis provides a complete disclosure of the relevant information supporting decisions associated with changes found in NUREG–1022, Revision 3.

Dated at Rockville, Maryland, this 5th day of February 2013.

For the Nuclear Regulatory Commission.

/RA/

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ADAMS Accession No.: ML12216A183

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