



NUCLEAR ENERGY INSTITUTE

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Ms. Cindy K. Bladey
Chief
Rules, Announcements, and Directives Branch (RADB)
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Comments on Unified Agenda of Federal Regulatory and Deregulatory Actions (*Federal Register* Vol. 78, 44404, dated July 23, 2013; Docket ID NRC-2013-0076)

Project Number: 689

Dear Ms. Bladey:

On behalf of the nuclear energy industry, the Nuclear Energy Institute (NEI)¹ appreciates the opportunity to provide comments on the Unified Agenda of Federal Regulatory and Deregulatory Actions published in the subject *Federal Register* Notice. Our comments are focused on the general unified agenda and the Common Prioritization of Rulemaking (CPR) process. We have not provided comments on the specific details of the each rulemaking except as used as examples to illustrate issues with the prioritization methodology.

In comparing the unified agenda with the Office of the Chief Financial Officer (OCFO) CPR report for FY's 2013/2014,² we noted some inconsistencies. The CPR report identifies 47 high-priority, 30 medium and 13 low-priority rulemaking activities. The unified agenda identifies 56 rulemaking activities. While it is understandable that not all of the activities listed in the CPR report would be included in the unified agenda (i.e. lower-priority, unfunded activities would be omitted), it is not clear what rationale was used in placing activities on the unified agenda. It is not apparent that the NRC staff used the prioritization information from the CPR to develop the unified agenda as suggested in the *Federal Register* Notice. For example, CPR high-

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

² NRC OCFO FY 2013 - FY 2014 Common Prioritization of Rulemaking Report II (ML13071A200)

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priority activities for spent fuel pool make-up (NTTF Recommendation 7), spent fuel pool reprocessing, and cyber security for fuel facilities are not reflected on the unified agenda. While at the same time, several low-priority activities such as: transfers to certain source materials by specific licensees, security requirements for geological repository operations area, and variable annual fee structure for power reactors are listed. It would be beneficial for the methodology or rationale for determining what activities are included and are not included on the unified agenda to be noted to improve public understanding of the agenda.

The CPR includes a safety assessment factor (Strategic Goals, Factor A), yet it appears, along with the other assessment factors, to be determined in a qualitative manner through committee discussion. The industry believes there would be benefit in having a set review criteria for committee discussion, using a risk-informed prioritization methodology, where appropriate, to determine what activities should be worked, deferred, suspended or eliminated. This would assure that the focus of NRC and industry management and resources are on those issues and actions that provide the greatest safety benefit. The NEI July 3, 2013, letter (Heymer (NEI) to Borchardt (NRC), *Industry Paper on Addressing Cumulative Impact through Generic Prioritization and Plant-Level Integrated Schedules*) outlines a possible approach that could be the basis for a more standardized CPR tool that would improve public understanding of the decision-making process.

In addition to strengthening the safety factor, consideration should be given to eliminating the CPR Factor B – Organizational Excellence from the scoring formula. The attributes of this factor (Openness, Effectiveness, & Operational Excellence) appear to be measures of NRC staff performance in completing a rulemaking effort rather than a prioritization tool.

If you have any questions on these comments or require additional information, please contact Chris Earls (202-739-8078; cee@nei.org) or me.

Sincerely,



Adrian Heymer

c: Mr. R. William Borchardt, EDO, NRC
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