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May 28, 2015

The Honorable Stephen G. Burns
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Industry Perspectives on Cumulative Effects of Regulation

Project Number: 689

Dear Chairman Burns:

In a paper dated April 1, 2015, U.S. Nuclear Regulatory Commission (NRC) staff provided recommendations for addressing the cumulative effects of regulation (CER) and the risk prioritization initiative (RPI) for operating power reactors (SECY-15-0050). The Commission was briefed on SECY-15-0050 during a May 19 meeting. The purpose of this letter is to provide industry perspectives on the recommended options and to outline possible Commission actions to ensure that progress in addressing CER continues.

In our April 16, 2013, letter¹, we identified two overarching components to address the cumulative effects of industry and regulatory actions:

- (1) Developing risk-informed prioritization and integrated scheduling processes for industry and regulatory actions that reflect safety, reliability and security considerations.
- (2) Ensuring changes to the existing body of regulations and guidance are prioritized and implemented consistent with safety significance.

Both of these components are necessary to assure that industry and NRC attention and resources remain focused on safe, reliable plant operations, and that any changes to industry or regulatory requirements and processes result in improvements in safety and efficiency.

¹ Letter, Anthony R. Pietrangelo to Michael R. Johnson and Michael F. Weber, *Initial Industry Proposals to Address the Cumulative Impact of Regulatory Actions*, April 16, 2013

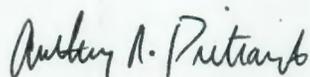
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Much has been accomplished in the last two years by the industry and the NRC to address these two components, and we are pleased that these efforts are reflected in the staff recommended options contained in SECY-15-0050. The recommended actions in SECY-15-0050 provide an opportunity for the agency to systematically risk-inform the broad range of regulatory actions affecting operating plant licensees and would enable operating plant licensees to provide a more standardized, risk-informed basis for schedule change requests.

There is broad agreement within the agency, as well as with the industry and other stakeholders, that changes are necessary to ensure that the actions of both the NRC and the industry are properly focused on safety and security, and that these actions are taken following a more holistic consideration of their impacts on safety and security. The options recommended in SECY-15-0050 provide an effective means to address the "assembly line" of regulatory actions. Whether these improvements are accomplished through modification of existing processes or the introduction of new processes, we believe that they can significantly improve the agency's ability to prioritize its regulatory initiatives in a way that maximizes safety benefit while minimizing burden on both the agency and licensees. We urge the Commission to approve the recommended options in SECY-15-0050 as the appropriate next steps in addressing CER.

We offer the attached comments on the recommended options and identify actions that we believe are necessary to enhance the near-term and longer-term value of the recommended changes. Please feel free to contact me if you have any questions.

Sincerely,



Anthony R. Pietrangelo

Attachment

c: The Honorable Kristine L. Svinicki, Commissioner, NRC
The Honorable William C. Ostendorff, Commissioner, NRC
The Honorable Jeff M. Baran, Commissioner, NRC
Mr. Mark A. Satorius, EDO, NRC
Mr. Michael R. Johnson, DEDO, NRC
Mr. Michael F. Weber, DEDO, NRC
Mr. William M. Dean, NRR, NRC
NRC Document Control Desk

Comments on Recommended Options in SECY-15-0050**Risk-informed prioritization and scheduling process (Option 2 – Part 1)**

In SECY-15-0050, the staff recommends allowing operating reactor licensees to use a risk-informed prioritization methodology as the supporting basis to request schedule changes through existing processes (e.g., exemptions, commitment changes, license amendments, and order modifications). This recommendation reflects the successful development and demonstration of a prioritization process by industry, in close coordination with NRC staff.

We urge the Commission to approve the staff recommendation and request that the Commission direct the staff to expedite the review and endorsement of industry guidance. We believe that expedited endorsement of industry prioritization and scheduling guidance is necessary to ensure that the experience and lessons learned from the pilot activities are efficiently transferred to all operating reactor licensees. There is currently a high level of industry attention and interest in adopting a risk-informed prioritization process as a means to address cumulative workload burdens. The normal timeline for regulatory guidance development and approval would defer application by operating reactor licensees by one to two years and would result in a missed opportunity to capitalize on the efficiencies of licensee and NRC expertise developed during the recent pilot activities as resources necessary to implement the prioritization and scheduling process are directed elsewhere.

During the May 19 briefing on SECY-15-0050, a number of the Commission questions appeared to reflect an impression that the recommended endorsement of industry prioritization guidance creates new processes for changing the implementation schedules for regulatory actions. Currently operating power reactor licensees request changes to implementation schedules for regulatory actions through the commitment change process or through an exemption request. Such changes are generally based upon non-risk factors, such as resource availability, outage scheduling and completion of necessary precursor events. Each change request is reviewed for acceptance by NRC staff. Under recommendation 2 of SECY-15-0050, operating plant licensees would continue to use these established processes for schedule change requests. The prioritization process, once endorsed by the NRC, would augment the basis for requested schedule changes and would provide a more standardized, risk-informed approach for the documented basis of submittals and subsequent review of change requests.

Prioritization of NRC Regulatory Actions (Option 2 – Part 2)

The staff recommends piloting the NRC use of an expert panel that would use risk insights and other relevant technical information to make recommendations to prioritize and eliminate (when appropriate) proposed regulatory actions. The expert panel, comprised of NRC senior managers and subject-matter experts, would consider proposed rules, orders and generic communications early in the development stages and make recommendations to prioritize, schedule, or eliminate when appropriate.

Comments on Recommended Options in SECY-15-0050

We fully support this recommended action and agree with the Advisory Committee on Reactor Safeguards opinion, as expressed in their March 11 letter¹, that the staff should explicitly include risk information as an input to decisions and priorities for proposed regulatory actions.

Although risk information is used in developing backfitting and regulatory analyses used to decide whether individual regulatory actions will yield a substantial safety benefit and are cost-beneficial, risk information is not systematically considered in agency decisions on how to prioritize regulatory actions that the staff determines should be imposed on licensees. This has contributed to the accumulation of regulatory actions that must be simultaneously addressed by licensees. Regulatory actions, when viewed in isolation and separate from other actions in play, are easily rationalized as requiring prompt action. Only through collective evaluation of actions can the relative importance of individual action be determined and used to prioritize and inform the actions necessary for addressing issues.

We believe that agency actions to prioritize proposed regulatory actions will improve the Commission capability to look at issues in a more holistic fashion. During the plenary session of this year's NRC Regulatory Information Conference, the Commission's efforts were compared to the famous "chocolate factory" skit from a 1952 episode of the *I Love Lucy* television show. The near-constant stream of SECY papers constrains the opportunity to fully consider the significance of what the Commission is addressing and its necessity ultimately to safety and security. Efforts by NRC staff to place proposed actions into a proper perspective relative to impact on safety and security would only serve to enhance the Commission decision-making process.

We believe prioritization of regulatory actions supports three of the four "transcending and transforming" themes identified in the Project AIM 2020 report. Specifically:

- strengthening unity of mission through adopting the concept of "One NRC," in which agency-level priorities are established and resources are promptly and effectively deployed to accomplish these priorities
- enhancing the culture of the NRC to increase efficiency, effectiveness, agility and flexibility
- sharpening NRC focus on achieving desired outcomes.

As the SECY paper provides little detail on the planned organization, scope and use of the expert panel, there is opportunity for the Commission, as part of its decision, to clearly identify its expectations for the prioritization of regulatory actions and the role prioritization will play in the NRC's decision-making process. A good place to start would be the incorporation of risk insights into

¹ Letter, John W. Stetkar to Chairman Burns, "Draft SECY Paper, "Cumulative Effects of Regulation Process Enhancements and Risk Prioritization Initiative: Response to Commission Direction and Recommendations," dated March 11, 2015.

Comments on Recommended Options in SECY-15-0050

the NRC's Common Prioritization of Rulemaking process.² A status quo response to the SECY recommendation accomplishes nothing.

Risk-informed plant-specific rule implementation schedules

Under Option 3 of SECY-15-0050, the staff recommends piloting a process where, as part of a rulemaking, operating reactor licensees would be permitted to commit to an implementation schedule that is determined using site- or unit-specific risk information. There are two possible approaches identified in the paper, both of which have been previously used in rulemaking actions. The first approach, utilized in the proposed rulemaking for 10 CFR 50.46c, "Emergency Core Cooling System Performance during Loss-Of-Coolant Accidents," allows licensees to submit, during the comment period, a proposed plant-specific implementation schedule that would be codified in the text of the final regulation. The second approach, demonstrated in the issuance of 10 CFR 50.63, "Loss of All Alternating Current Power," permits affected licensees to determine and commit to a site- or unit-specific implementation date. As both proposed approaches have been used previously, there would appear to be sufficient evidence to assess the viability of either approach, negating the value of a pilot. The plant-specific prioritization process recommended under Option 2, would provide a means to risk-inform licensee proposed implementation schedules for future proposed rules.

We support actions that would enable licensee input into site- or unit-specific rule implementation schedules and encourage the Commission to direct the staff to provide this capability in future rules.

Actions to Address Risk Prioritization Initiative for non-operating reactor licensees

The staff recommended options for addressing CER and RPI are currently limited to operating power reactors. Non-power reactor licensees are impacted to no less a degree by cumulative effects of regulation. As such, actions to extend the risk-prioritization initiative beyond operating power reactors should be considered. We encourage the Commission to expand the risk prioritization initiative to include other business lines.

² NEI and the industry have recommended measures to improve the Common Prioritization of Rulemaking (CPR) process. See Letter, John C. Butler (NEI) to Cindy K. Bladley (NRC), August 26, 2014.