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Unified Agenda of Federal Regulatory and Deregulatory Actions

Comment On: NRC-2017-0185-0001
Unified Agenda of Federal Regulatory and Deregulatory Actions; Semiannual Regulatory Agenda

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Comment on FR Doc # 2017-28246

Submitter Information

Name: John Butler
Submitter's Representative: Anya Barry
Organization: Nuclear Energy Institute

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General Comment

(1)

See attached file(s)

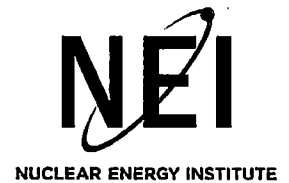
Attachments

02-12-18_NRC_NEI Comments on Unified Agenda

SUNSI Review Complete
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Add= C. Bladley (CXB6)

JOHN C. BUTLER
Senior Technical Advisor

1201 F Street, NW, Suite 1100
Washington, DC 20004
P: 202.739.8108
jcb@nei.org
nei.org



February 12, 2018

Ms. Cindy K. Bladey
Office of Nuclear Materials Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Submitted via Regulations.gov

Subject: Comments on Unified Agenda of Federal Regulatory and Deregulatory Actions (*Federal Register Vol. 83, 2018*, dated January 12, 2018; Docket ID NRC-2017-0185)

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 review of the NRC regulatory agenda and underlying regulatory processes has focused on identifying measures necessary to ensure that the NRC conducts the rulemaking process in an efficient and transparent manner, accounts for the cumulative effects of regulation, and appropriately incorporates stakeholder input throughout the process.

The Unified Agenda of Federal Regulatory and Deregulatory Action identifies 53 active and long-term rulemaking activities. A more recent listing of rulemakings, provided on the NRC public website², identifies 57 rulemakings. The average age of these rulemaking activities is 4.4 years. In the previous 12 months, as reflected in the Spring 2017 and Fall 2017 Agenda, twenty rulemaking activities were completed. Discontinued rulemakings constituted 30% of the completed activities and 40% were amendments to the list of approved spent fuel storage casks. A significant portion of the remaining 30% was a combination of administrative and non-discretionary activities. The total rulemaking budget for fiscal year 2018 is \$2.431 million and 87 full-time equivalents (FTE)³.

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 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 <https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/RuleIndex.html>

³ NUREG-1100, Volume 33, "Congressional Budget Justification, Fiscal Year 2018"

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The high percentage of discontinued rulemakings, while welcomed, calls into question the efficacy of the current process for initiating rulemaking activities. The high average age and significant staff hours expended on rulemakings both point to a need to improve prioritization and oversight efforts. The changes in the rulemaking process resulting from SECY-15-0129, *Commission Involvement in Early Stages of Rulemaking*, are expected to provide greater oversight on rulemaking efforts; however, additional changes may be warranted.

As noted in the *Federal Register* notice, the NRC has a process for developing rulemaking budget estimates and determining the relative priorities of rulemaking projects during budget formulation. The "Common Prioritization of Rulemaking" (CPR) process considers four factors and assigns a score to each factor. Those factors include:

- Factor A. Support for the NRC's strategic plan goals
- Factor B. Support for cross-cutting strategies that cross cut and support safety and security objectives
- Factor C. A governmental factor representing interest to the NRC, Congress or other governmental bodies
- Factor D. An external factor representing interest to the public, non-governmental organizations, and the nuclear industry.

The CPR factors are determined in a qualitative manner through committee discussion. For Factor A, as an example, the process assesses whether a rulemaking activity supports either the NRC strategic plan goal for safety and/or the strategic plan goal for security with little discrimination among issues as to the level of support offered. A review of CPR scores for Factor A shows that 50% of current regulatory actions received a High score (value between 14 and 20).

The industry believes that there would be benefit in having review criteria for each of the prioritization factors and that these review criteria should be focused on the benefit provided by the proposed change (i.e., Δ benefit) vs. the benefit of regulation. In addition, the review criteria should take into account the cost and burden imposed by the proposed regulation. This refinement of the prioritization process would assist the review process by encouraging greater discrimination among assigned scores and would assure that the focus of NRC and industry attention and resources are on those issues that provide the greatest safety and security benefit. There is an opportunity to update the CPR review criteria as part of the effort to reflect recent changes to the NRC Strategic Plan: Fiscal Years 2018-2022.

Please contact me if you have any questions regarding these comments.

Sincerely,



John C. Butler