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NUCLEAR ENERGY INSTITUTE

August 2, 2018

Ms. Annette L. Vietti-Cook
Secretary
Attn: Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: Petition to Amend 10 CFR 50.72, "Immediate notification requirements for operating nuclear power reactors"

Project Number: 689

Ms. Vietti-Cook:

On behalf of its members and pursuant to 10 CFR 2.802, "Petition for Rulemaking," the Nuclear Energy Institute (NEI)[1] submits the enclosed petition to amend 10 CFR 50.72, "Immediate notification requirements for operating nuclear power reactors." The purpose of this petition is to amend 10 CFR 50.72 to remove non-emergency notification requirements.

We appreciate your attention to this matter. If you have any questions concerning this petition, please contact me at 202.739.8081; jwp@nei.org or Chris Earls at 202.739.8078; cee@nei.org.

Sincerely,

Bill Pitesa

Bill Pitesa

Enclosure

C: Dr. Patricia K. Holahan, NMSS/DRM
Mr. Brian Holian, NRR

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

Petition for Rulemaking to Amend 10 CFR 50.72, "Immediate notification requirements for operating nuclear power reactors"

Before the
UNITED STATES NUCLEAR REGULATORY COMMISSION
Rockville, Maryland

In the Matter of a Proposed Rulemaking to Amend 10 CFR 50.72, "Immediate notification requirements for operating nuclear power reactors" **Docket No. _____**

PETITION FOR RULEMAKING BY THE NUCLEAR ENERGY INSTITUTE

Pursuant to 10 CFR 2.802, the Nuclear Energy Institute, Inc. (NEI), on behalf of its members, submits this petition for rulemaking requesting that the U.S. Nuclear Regulatory Commission (NRC), following public notice and opportunity for comment, amend 10 CFR 50.72, "Immediate notification requirements for operating nuclear power reactors." NEI requests that the NRC promptly begin a rulemaking to amend 10 CFR 50.72 to remove non-emergency notification requirements.

I. STATEMENT OF PETITIONER'S INTEREST

NEI has a clear and substantial interest in the requested rulemaking. 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 on behalf of its member organizations. NEI members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear material licensees, and other organizations and individuals involved in the nuclear energy industry. NEI is responsible for coordinating the combined efforts of its member licensed facilities on matters involving generic NRC regulatory policy issues and generic operational and technical regulatory issues. Most of the entities subject to 10 CFR 50.72 are NEI members. Hundreds of 10 CFR 50.72 notifications are submitted to the NRC every year by NEI members who are nuclear power reactor licensees. The proposed rulemaking would eliminate duplicative notifications to the NRC, without presenting any incremental risk to public health and safety.

II. BACKGROUND AND PROBLEM STATEMENT

A. Regulatory History of 10 CFR 50.72

In 1980, the NRC promulgated a new regulation, 10 CFR 50.72, requiring power reactor licensees to immediately notify the NRC upon (1) declaration of an emergency and (2) the occurrence of certain non-emergency events. The NRC explained that it had a duty to "act promptly to prevent or minimize possible injury to the public" and to "take necessary action" in response to certain events. (45 FR 13434)(1980).

Relatedly, in 1983, the NRC promulgated another regulation, 10 CFR 50.73, requiring licensees to submit to the NRC, within 30 days of certain enumerated events, a written Licensee Event Report (LER). The Commission found the rule would provide "information necessary for engineering studies of operational anomalies and trends in patterns analysis of operational occurrences." The events enumerated in 10 CFR 50.73 are very similar to those in 10 CFR 50.72. (48 FR 33850) The LER deadline in 10 CFR 50.73 was extended from 30 to 60 days in 2000. (65 FR 63787)

The NRC has occasionally revised these notification and reporting requirements, based on accumulated operating experience, to delete certain requirements that provided little or no safety benefit (57 FR 41378; 65 FR 63769). In SECY-98-036, *Rulemaking to Modify Event Reporting Requirements for Power Reactors,* the NRC staff presented its plan to modify 10 CFR 50.72 & 50.73 to (1) correct weaknesses in the current rules, including reducing the reporting burden associated with events of little or no safety significance, and (2) better align the rules with the NRC's current needs, including (a) obtaining information better related to risk and (b) reconsidering the required reporting times in relation to the need for prompt NRC action. However, these regulations have not been updated in this manner since January 2001.

NEI submits this petition for rulemaking under 10 CFR 2.802 based on the accumulation of additional operating experience. As the policy organization for the U.S. commercial nuclear operating fleet, NEI has coordinated with member companies to collect and evaluate the years of operating experience that supports this petition. We believe that implementation of the recommended revisions would further objectives set forth in the earlier rulemakings for 10 CFR 50.72 and 50.73, specifically to the present-day NRC Principles of Good Regulation.[1] Operating experience has demonstrated only the most tenuous connection between immediate (4-hour and 8-hour) non-emergency reports to the NRC and the need for NRC to take prompt action commensurate with those immediate time periods. The petition seeks amendment of 10 CFR 50.72 to eliminate the requirement to provide immediate notification to the NRC for non-emergency events because (1) licensees have procedures for responding to non-emergency events, (2) licensees have procedures or practices ensuring notification of the resident inspector for non-emergency events independent of the requirements of 10 CFR 50.72, and (3) the duplicative notifications under 10 CFR 50.72 serve no safety function and are not needed to prevent or minimize possible injury to the public or to allow the NRC to take necessary action.

[1] The Principles of Good regulation of Independence, Openness, Efficiency, Clarity, and Reliability can be found at https://www.nrc.gov/about-nrc/values.html#principles

B. The Need to Amend 10 CFR 50.72 Non-Emergency Reporting Obligations

The stated purpose of 10 CFR 50.72 is to ensure that the NRC is immediately notified and can take prompt action. Almost forty years of fleet operating experience demonstrates that the purpose of this regulation can be fully achieved without all of the current licensee reporting obligations relating to non-emergency events. As discussed below, licensees' notifications to the NRC relating to non-emergency events are duplicated by NRC on-site resident inspectors' communications to the NRC of such events. NRC Resident Inspectors are well-positioned to understand, evaluate, and take necessary actions in response to non-emergency events. Accordingly, this licensee reporting requirement has become redundant. The 10 CFR 50.72 non-emergency notifications likewise sometimes presents an unnecessary distraction for the licensee and the NRC from responding to the event. Finally, elimination of these redundant notifications would reduce workload, while having no adverse impact on safety.

1. The 10 CFR 50.72 Non-Emergency Notifications Are Redundant with Resident Inspectors' Communications to the NRC

10 CFR 50.72 requires a licensee to contact the NRC Operations Center by telephone using the Emergency Notification System. If the Emergency Notification System is inoperative, the licensee may use a commercial telephone service, another dedicated telephone system, or another method. In practice, when making a 10 CFR 50.72 non-emergency notification, the licensee fills out the form that will be faxed, calls the NRC Operations Center to read the message, and then faxes the notification to the Operations Center.

As discussed in further detail in the sections below, licensees contact their resident inspectors when making a 10 CFR 50.72 non-emergency notification. This is governed by a licensee's procedures and practices or an agreement with the resident inspectors. The information provided in this call is typically more detailed than that provided during the 10 CFR 50.72 non-emergency notification because the resident inspectors are familiar with the plant and cognizant of the on-going activities. For events that reach a higher level of interest, the resident inspectors would contact the Region, possibly before the NRC Operations Center is contacted. All of these events meet the licensee's threshold for entry into the Corrective Action Program (CAP) and are available for the NRC's detailed review typically within a few hours and certainly within 24 hours.

Near real-time communication with resident inspectors is made possible by the use of cellphones and the fact that at least two NRC resident inspectors are assigned to each U.S. commercial nuclear plant. Resident inspectors serve as the agency's informed eyes and ears at the facility while conducting inspections, monitoring major work projects and interacting with plant workers and the public. Daily, these highly trained and qualified professionals scrutinize activities at the plants and verify adherence to federal safety requirements. This oversight can take many forms on any given day, including an inspector visiting the control room and reviewing operator logbook entries or watching operators conduct plant manipulations; performing visual assessments of a certain area or areas of the plant; observing tests of, or repairs to, important systems or components; interacting with plant employees to inquire about

any safety concerns; or checking corrective action documents to ensure that problems have been identified and appropriate fixes implemented. Any safety-significant issues that are identified are promptly brought to the attention of plant operators to be corrected, if necessary, and communicated to NRC management.

The NRC launched the Resident Inspectors Program in 1978 to improve the agency's inspection program. The goal was to provide increased knowledge of conditions at plants, improve the NRC's ability to independently verify the performance of plant personnel and equipment, and enhance the NRC's incident response capability. The inspectors serve as the agency's initial evaluators of plant events, receive allegations regarding safety issues from plant employees, and conduct inspections. While this program was not yet mature when the 10 CFR 50.72 regulation was first promulgated in 1980, 38 years of operating experience has shown that the resident inspectors have proven to be an excellent communications conduit from the site to NRC management. In 1980, resident inspectors would look up numbers in heavy telephone books and dial telephone calls one at a time using wired landlines. In 2018, the ability of the resident inspectors to make immediate notifications to NRC management is dramatically improved by the invention of wireless technology, mobile phones, text messaging, voice over internet protocol, personal computers, the internet and other advanced methods of information sharing. This improved, and effective, communications network obviates the need for the 10 CFR 50.72 non-emergency notifications, as the resident inspectors are best positioned to understand and evaluate non-emergency scenarios. Additionally, data from the Emergency Response Data System (ERDS) for all sites is available to the NRC at both Headquarters and the Regions at all times. Relying on this communications network, supplemented by ERDS as needed, would represent continued adequacy of communication as well as efficiency gains for both the NRC staff and the licensees.

Most 10 CFR 50.72 notifications specifically state that the NRC resident inspector has already been notified by the time the notification is provided to the NRC Operations Center. In one sample study performed between January 1, 2016 and May 13, 2016, for example, licensees made 122 non-emergency event notifications related to 10 CFR 50.72. 115 of those notifications documented that the resident inspector had been notified, while 5 stated that the resident inspector would be notified. For the remaining 2 notifications, although not stated, it is highly probable that the resident inspector was notified, but the documented notification simply did not state it. Of the first 121 non-emergency notifications in the first half of 2018, 118 of those notifications documented that the resident inspector or Region had been notified, while the remaining 3 stated that the resident inspector would be notified. This confirms the redundancy of the communications and the little value added by the subject regulation.

Some of the perceived benefits associated with making timely 10 CFR 50.72 non-emergency notifications are to allow the NRC both to immediately react to an on-going issue at a site and to determine if a reactive inspection is required to provide additional oversight. However, immediate NRC intervention in non-emergency events has rarely been necessary. For example, in a sample study performed on data from January 1, 2011 to April 18, 2016, licensees made 2,218 non-emergency event reports to the NRC pursuant to 10 CFR 50.72. Only 1% of those events resulted in the NRC dispatching a Special or Augmented Inspection Team and there was no indication that the required notification process was the information

conduit to the NRC. A review of the most recent data is consistent with this study. Notably, this outcome (facilitating timely NRC reaction and determination of the possible need for reactive inspection) is readily achieved by the existing expectation and standard practice of licensees of notifying the resident inspectors of plant events. The NRC resident inspectors are familiar with the design and operations of nuclear power plants and are trained how to react to events that occur at the site, including when to escalate issues to NRC management. NRC could, and does, use that already-existing process to inform its decision-making, which renders the benefits of the 10 CFR 50.72 non-emergency notifications moot. In addition, the resident inspectors participate in a daily phone call to discuss on-going issues at the site. If, for some reason, the resident inspector failed to escalate something to NRC management, this phone call serves as a backstop.

2. 10 CFR 50.72 Non-Emergency Notifications Distract Key Plant Staff When They Are Addressing Events

Preparing and providing the notifications required by 10 CFR 50.72 distracts the operating staff, operations management, and the regulatory and technical staffs by shifting their focus from responding to the on-going plant situation to compliance with an administrative requirement.

When a non-emergency event occurs that is described in 10 CFR 50.72, the operations control room staff is tasked with both addressing the event and beginning to prepare the paperwork required to make a 10 CFR 50.72 non-emergency notification. A typical 10 CFR 50.72 non-emergency notification requires input from operations and the regulatory staff, as well as engineering, depending upon the event. Shortly after the event occurs, these individuals meet in or near the control room to discuss the event and to craft a succinct, yet complete in all material respects, summary of the event. After the paperwork is complete, it is circulated through site management for review and approval. Operational experience databases may be consulted to promote consistency with previous reporting in similar situations. Some organizations may seek peer reviews from other sites within their utility and from the fleet.

Through benchmarking, NEI estimates that it takes approximately 10 manhours on average for a simple, straight-forward notification and 25 manhours or more for a more complex one. Preparing, reviewing, and approving these notifications requires control room staff attention and focuses management attention on completing these administrative requirements at the same time they are providing oversight to the event recovery.

In addition to the distraction from important activities and the significant cost of evaluating these non-emergency events for reportability, even more manhours are consumed in preparing evaluations of non-emergency events that are ultimately determined to be non-reportable. Because the plants run 24 hours per day and the 10 CFR 50.72 requirements dictate 4 and 8-hour immediate determinations of non-emergency event reportability, these reporting determination efforts take on the additional burden of licensee operations, regulatory, and engineering staff working off hours and weekends. Further, the more minor the non-emergency event, (i.e., the closer the decision is to the line between reportable and not reportable) in an

effort to balance the requirement with the potential follow-on consequences, additional time and resources are applied.

Compliance with the 10 CFR 50.72 non-emergency notification requirements can be complicated. Interpretations of reporting thresholds often vary. The NRC routinely advises licensees to report when in doubt and to retract later if information is gathered to show that the non-emergency event did not reach the notification threshold. In the context of this discussion of non-emergency notifications, such a practice creates significant and unnecessary extra work with no safety benefit. Additionally, as discussed above, the resident inspectors are already aware of the event.

Both NRC resident inspectors and plant staff often review past 10 CFR 50.72 non-emergency notifications as operating experience for determining whether a notification is necessary. This leads to questions about why a licensee did not provide the same non-emergency notification as another licensee did, even if the notification was not required by 10 CFR 50.72. Likewise, plant staff sometimes looks at the notifications as lessons learned and decides to provide a notification, even if it is not required, because another licensee provided that notification. When sites report "conservatively" the process of reporting results in an inefficient and ever-expanding practice. Given this practice, the threshold for the non-emergency events may become more sensitive to less significant events, hence continuing to utilize resources for unnecessary reporting exercises.

As demonstrated in this section, the requirement to perform prompt 10 CFR 50.72 non-emergency notifications requires a large manhour commitment, for no safety gain. Given the substantial resource requirements for complete and accurate documentation, the distraction of key personnel, and mostly prominently, the existence of duplicative reporting mechanisms, the current regulation is unnecessarily burdensome and counter-productive. We therefore recommend that Section 50.72 (b) be amended to eliminate the requirement for the licensee to make non-emergency notifications. This will enable licensee personnel to focus on more safety-significant matters.

3. 10 CFR 50.72 Non-Emergency Notifications Are Contrary to the Principles of Good Regulation, Contrary to the Best Interests of the Public, and Contrary to the Stated Purpose of the Regulation

Given the substantial burden of preparing and performing 10 CFR 50.72 non-emergency notifications, and the existence of a second effective, more efficient reporting mechanism, the current regulation is unnecessary and contrary to the Principles of Good Regulation.

The "Efficiency" principle from the Principles of Good Regulation states in part:

> NRC must establish means to evaluate and continually upgrade its regulatory capabilities. Regulatory activities should be consistent with the degree of risk reduction they achieve. Where several effective alternatives are available, the option which minimizes the use of resources should be adopted.

As supported by Sections 1 and 2 of this petition, non-emergency notifications are not consistent with the degree of risk-reduction they achieve. By definition, they are non-emergency events. Indeed, elimination of these duplicative notifications would provide a safety benefit by allowing licensees to redirect technical and engineering resources away from administrative compliance activities and toward assessment and corrective action activities.

Because there are currently two pathways for communicating similar information, the more efficient pathway that optimizes resources and also communicates more information should be the one that is adopted. Therefore, communications regarding ongoing plant events should be funneled from the site to a resident inspector and to NRC regional management. The redundant and duplicative method of preparing and providing 10 CFR 50.72 non-emergency notifications should be discontinued.

The "Openness" principle from the Principles of Good Regulation states in part:

> Nuclear regulation is the public's business, and it must be transacted publicly and candidly. The public must be informed about and have the opportunity to participate in the regulatory processes as required by law.

A perceived benefit associated with making timely 10 CFR 50.72 notifications is to provide information to the public. However, the 10 CFR 50.72 notifications are preliminary information and, again, by definition associated with <u>non-emergency</u> events. Emergency events would still require public notifications as required by section (a) of subject regulation and the non-emergency events that may have more than minor safety implications will continue to have sufficient NRC oversight. Elimination of the immediate notification requirements for non-emergency events is consistent with the NRC principles. Indeed, the non-emergency event information is often better and more fully described in other available documents, including NRC inspection reports and LERs required by 10 CFR 50.73. Further, in some cases, the preliminary 50.72 non-emergency event notifications can cause confusion between emergency and non-emergency events and may have an unwarranted adverse impact on public confidence in both the NRC and the licensee. Given that these are non-emergency events, fuller descriptions afforded by complete Licensee and NRC understandings of the event, available to the public, are provided within the 60 days required by 10 CFR 50.73 and is sufficient for transparency purposes.

4. 10 CFR 50.72 Non-Emergency Notifications That Are Not Currently Reported in a 60-Day Licensee Event Report Under 10 CFR 50.73 Are Unrelated to Reactor Safety

There are only three kinds of notifications required by 10 CFR 50.72 where there is no corresponding requirement in 10 CFR 50.73. Notifications under 50.72(b)(3)(xii) and (b)(2)(xi) are essentially "courtesy calls" to the NRC for situations unrelated to reactor safety and plant

equipment or components. Courtesy calls to the NRC resident inspectors for all manner of events, including, but not limited to, the transport of a contaminated person (50.72(b)(3)(xii)) or a news release to a government agency (50.72(b)(2)(xi)), are easily handled by the resident inspectors who are in constant communication with licensee personnel. There are a number of regulatory drivers for notifications to other government agencies, such as OSHA reporting of a fatality or severe injury, or exceedances identified in EPA permits. Once (or if) a threshold has been achieved, an NRC notification should not be necessary for the purpose of informing the public. If licensees are required to report an event to another government agency, it should be the decision of the agency with primary jurisdiction as to what is made available to the public. Therefore, these "courtesy call" events are good examples of events that would be better handled by the existing licensee procedures, practices and communications as delineated in this petition. The third notification, loss of emergency preparedness capability under 10 CFR 50.72(b)(3)(xiii), is a good example of a burdensome regulation that distracts licensee managers from the problems at hand as hours are expended in attempts to parse the difference between a reportable loss and a non-reportable loss. Emergency preparedness is a major focus of the resident inspectors who not only are aware or made aware of equipment problems immediately, but who also are empowered to write findings or violations against the robust inspection requirements in the 71114 Emergency Preparedness Baseline Inspection Procedure series. Any event that results in a major loss of emergency preparedness capability will be captured in the licensee's CAP, reviewed by the resident inspector, and, as appropriate, captured in a subsequent quarterly inspection report which is made available to the public.

When the 10 CFR 50.72 regulation was promulgated in 1980, the NRC explained that it had a duty to "act promptly to prevent or minimize possible injury to the public." It follows that, in the event of a 4-hour immediate notification, the regulation implies that the NRC would need to take action before the end of the 8-hour shift in which the event occurs. Or, for an 8-hour notification event, the NRC possibly envisioned that the actions to protect the public would be necessary within a few hours but not necessarily before an 8-hour shift turnover takes place. Conversely, in the almost 40 years this regulation has been in place, the NRC has never taken any kind of action in this tight time frame in order to protect the public for one of these non-emergency events. Indeed, for these non-emergency events, there is no need for this type of prompt action. Consequently, operating experience verifies that the current regulation is not necessary to achieve this stated purpose. As stated earlier, in 1% of these non-emergency events, the NRC may dispatch an inspection team. But, in these instances, notification from the resident inspector is more than sufficient for the NRC to take this kind of "prompt action."

We believe this petition for rulemaking is consistent with the NRC's Principles of Good Regulation and the protection of public health and safety while reducing the burden on licensee resources. We respectfully request that the NRC grant this petition.

III. PROPOSED SOLUTIONS TO THE PROBLEM IDENTIFIED IN THE PETITION

Consistent with the requirements of 10 CFR 2.802(c)(1)(v) NEI proposes the following:

1. NRC retain the emergency notification requirements in 10 CFR 50.72 and other regulations, and
2. NRC amend 10 CFR 50.72 to eliminate the requirement that licensees make non-emergency notifications. In lieu of such notifications, the NRC can and should instead establish guidance for the Resident Inspectors providing consistent and standard expectations for utilizing the existing communication protocols that have proven effective from the site to the resident inspectors and, from there, on to NRC management.

IV. PROPOSED CHANGES TO 10 CFR 50.72

NEI requests that the NRC amend 10 CFR 50.72 as follows:

§ 50.72 Immediate notification requirements for operating nuclear power reactors.

(a) General requirements.[1] (1) Each nuclear power reactor licensee licensed under §§ 50.21(b) or 50.22 holding an operating license under this part or a combined license under part 52 of this chapter after the Commission makes the finding under § 52.103(g), shall notify the NRC Operations Center via the Emergency Notification System of:

(i) The declaration of any of the Emergency Classes specified in the licensee's approved Emergency Plan; [2] or

(ii) Those non-emergency events specified in paragraph (b) of this section that occurred within three years of the date of discovery.

(2) If the Emergency Notification System is inoperative, the licensee shall make the required notifications via commercial telephone service, other dedicated telephone system, or any other method which will ensure that a report is made as soon as practical to the NRC Operations Center.[3]

(3) The licensee shall notify the NRC immediately after notification of the appropriate State or local agencies and not later than one hour after the time the licensee declares one of the Emergency Classes.

(4) The licensee shall activate the Emergency Response Data System (ERDS) [4] as soon as possible but not later than one hour after declaring an Emergency Class of alert, site area emergency, or general emergency. The ERDS may also be activated by the licensee during emergency drills or exercises if the licensee's computer system has the capability to transmit the exercise data.

(5) When making a report under paragraph (a)(1) of this section, the licensee shall identify:

(i) The Emergency Class declared.~~; or~~

~~(ii) Paragraph (b)(1), "One-hour reports," paragraph (b)(2), "Four-hour reports," or paragraph (b)(3), "Eight-hour reports," as the paragraph of this section requiring notification of the non-emergency event.~~

~~(b) Non-emergency events~~

~~(1) One-hour reports. If not reported as a declaration of an Emergency Class under paragraph (a) of this section, the licensee shall notify the NRC as soon as practical and in all cases within one hour of the occurrence of any deviation from the plant's Technical Specifications authorized pursuant to Sec. 50.54(x) of this part.~~

~~(2) Four-hour reports. If not reported under paragraphs (a) or (b)(1) of this section, the licensee shall notify the NRC as soon as practical and in all cases, within four hours of the occurrence of any of the following:~~

~~(i) The initiation of any nuclear plant shutdown required by the plant's Technical Specifications.~~

~~(ii)-(iii) [Reserved]~~

~~(iv)(A) Any event that results or should have resulted in emergency core cooling system (ECCS) discharge into the reactor coolant system as a result of a valid signal except when the actuation results from and is part of a pre-planned sequence during testing or reactor operation.~~

~~(B) Any event or condition that results in actuation of the reactor protection system (RPS) when the reactor is critical except when the actuation results from and is part of a pre-planned sequence during testing or reactor operation.~~

~~(v)-(x) [Reserved]~~

~~(xi) Any event or situation, related to the health and safety of the public or onsite personnel, or protection of the environment, for which a news release is planned or notification to other government agencies has been or will be made. Such an event may include an onsite fatality or inadvertent release of radioactively contaminated materials.~~

~~(3) Eight-hour reports. If not reported under paragraphs (a), (b)(1) or (b)(2) of this section, the licensee shall notify the NRC as soon as practical and in all cases within eight hours of the occurrence of any of the following:~~

~~(i) [Reserved]~~

~~(ii) Any event or condition that results in:~~

~~(A) The condition of the nuclear power plant, including its principal safety barriers, being seriously degraded; or~~

~~(B) The nuclear power plant being in an unanalyzed condition that significantly degrades plant safety.~~

~~(iii) [Reserved]~~

~~(iv)(A) Any event or condition that results in valid actuation of any of the systems listed in paragraph~~

~~(b)(3)(iv)(B) of this section, except when the actuation results from and is part of a pre-planned sequence during testing or reactor operation.~~

~~(B) The systems to which the requirements of paragraph (b)(3)(iv)(A) of this section apply are:~~

~~(1) Reactor protection system (RPS) including: Reactor scram and reactor trip.~~[5]

~~(2) General containment isolation signals affecting containment isolation valves in more than one system or multiple main steam isolation valves (MSIVs).~~

~~(3) Emergency core cooling systems (ECCS) for pressurized water reactors (PWRs) including: High-head, intermediate-head, and low-head injection systems and the low pressure injection function of residual (decay) heat removal systems.~~

~~(4) ECCS for boiling water reactors (BWRs) including: High-pressure and low-pressure core spray systems; high-pressure coolant injection system; low pressure injection function of the residual heat removal system.~~

~~(5) BWR reactor core isolation cooling system; isolation condenser system; and feedwater coolant injection system.~~

~~(6) PWR auxiliary or emergency feedwater system.~~

~~(7) Containment heat removal and depressurization systems, including containment spray and fan cooler systems.~~

~~(8) Emergency ac electrical power systems, including: Emergency diesel generators (EDGs); hydroelectric facilities used in lieu of EDGs at the Oconee Station; and BWR dedicated Division 3 EDGs.~~

(v) Any event or condition that at the time of discovery could have prevented the fulfillment of the safety function of structures or systems that are needed to:

(A) Shut down the reactor and maintain it in a safe shutdown condition;

(B) Remove residual heat;

(C) Control the release of radioactive material; or

(D) Mitigate the consequences of an accident.

(vi) Events covered in paragraph (b)(3)(v) of this section may include one or more procedural errors, equipment failures, and/or discovery of design, analysis, fabrication, construction, and/or procedural inadequacies. However, individual component failures need not be reported pursuant to paragraph (b)(3)(v) of this section if redundant equipment in the same system was operable and available to perform the required safety function.

(vii)-(xi) [Reserved]

(xii) Any event requiring the transport of a radioactively contaminated person to an offsite medical facility for treatment.

(xiii) Any event that results in a major loss of emergency assessment capability, offsite response capability, or offsite communications capability (e.g., significant portion of control room indication, Emergency Notification System, or offsite notification system).

(b) **(c)** *Followup notification*.
With respect to the telephone notifications made under paragraph**s** (a) **and (b)** of this section, in addition to making the required initial notification, each licensee, shall during the course of the event:

(1) *Immediately report* (i) any further degradation in the level of safety of the plant or other worsening plant conditions, including those that require the declaration of any of the Emergency Classes, if such a declaration has not been previously made, or (ii) any change from one Emergency Class to another, or (iii) a termination of the Emergency Class.

(2) *Immediately report* (i) the results of ensuing evaluations or assessments of plant conditions, (ii) the effectiveness of response or protective measures taken, and (iii) information related to plant behavior that is not understood.

(3) Maintain an open, continuous communication channel with the NRC Operations Center upon request by the NRC.

[48 FR 39046, Aug. 29, 1983; 48 FR 40882, Sept. 12, 1983; 55 FR 29194, July 18, 1990, as amended at 56 FR 944, Jan. 10, 1991; 56 FR 23473, May 21, 1991; 56 FR 40184, Aug. 13,

1991; 57 FR 41381, Sept. 10, 1992; 58 FR 67661, Dec. 22, 1993; 59 FR 14087, Mar. 25, 1994; 65 FR 63786, Oct. 25, 2000; 72 FR 49502, Aug. 28, 2007]

1. Other requirements for immediate notification of the NRC by licensed operating nuclear power r***[a]***ectors are contained elsewhere in this chapter, in particular Secs. 20.1906, 20.2202, 50.36, 72.216, and 73.71.
2. These Emergency Classes are addressed in Appendix E of this part.
3. Commercial telephone number of the NRC Operations Center is (301) 816-5100.
4. Requirements for ERDS are addressed in Appendix E, Section VI.
5. Actuation of the RPS when the reactor is critical is reportable under paragraph (b)(2)(iv)(B) of this section.

Conforming changes should be evaluated for obvious conflicts and errant references throughout Title 10. The most obvious are as follows:

10 CFR 20.2201, 20.2202, 21.2, 30.50, 40.60, 50.36, 50.46, Appendix J to Part 50, Option B, and 70.50.

V. BASIS FOR PROPOSED CHANGES TO 10 CFR PART 50.72

In addition to the information provided in Section II.B. above, the following information explains the basis for the specific rulemaking action requested, as required by 10 CFR 2.802.

In support of the requirements of 10 CFR 2.802(c)(2)(i), we believe the proposed rulemaking solution set forth in NEI's petition is not contrary to law, and is within the authority of the NRC to adopt. The petition deals solely with regulatory provisions promulgated and enforced by the NRC. The Commission has broad authority under Section 161 of the Atomic Energy Act of 1954, as amended, to make, promulgate, issue, rescind and amend rules and regulations, including reporting requirements such as those in 10 CFR 50.72.

Additionally, the petition does not challenge the validity of Section 50.72. Rather, it seeks to eliminate certain redundant licensee reporting obligations relating to *non-emergency notifications.* We propose that the same information conveyed in these non-emergency notifications be communicated to NRC headquarters by the NRC Resident Inspectors at the affected sites—as is already the practice in the operating fleet.

This PRM does not propose any changes in licensees' obligations to report emergency notifications of any kind.

In support of the requirements of 10 CFR 2.802(c)(2)(ii), we believe that rulemaking is the most favorable approach for resolving the identified issue. As noted above, power reactor licensees notify NRC resident inspectors of non-emergency events in addition to providing formal notification to the NRC Operations Center. Licensees would benefit from the elimination of these duplicative reporting requirements, which is most readily accomplished by a rulemaking to amend 10 CFR 50.72. Additionally, because this regulatory requirement affects dozens of

similarly situated NRC reactor licensees, resolution through rulemaking is clearly more appropriate (and economical) than other forms of resolution (e.g., exemptions).

The proposed rulemaking resolves the identified issue, does not present any increased risk to public health and safety, and is consistent with the common defense and security. The NRC originally envisioned immediate notifications under 10 CFR 50.72 as a tool allowing the agency to “act promptly to prevent or minimize possible injury to the public.” (45 FR 13434). However, almost forty years of industry operating experience demonstrates that licensee non-emergency notifications under Section 50.72 are in fact not necessary to enable the agency to “act promptly to prevent or minimize possible injury to the public.” Reactor licensees have robust site procedures for non-emergency events to “prevent or minimize possible injury to the public.” In addition, the NRC Resident Inspectors at each site (as well as the licensee itself) report non-emergency events to NRC headquarters. If NRC licensees’ obligation to report non-emergency events to NRC HQ is discontinued, the NRC will still continue to receive that information from the Resident Inspectors, thus facilitating an agency response should that be needed.

The public, in due time and promptly within 60 days, will continue to be notified of the event in accordance with 10 CFR 50.73, of which no changes are being recommended. Additionally, to the extent information regarding non-emergency events can inform “engineering studies of operational anomalies and trends in patterns analysis of operational occurrences,” this information will still be available in the detailed post-event LER analyses under 10 CFR 50.73. (48 FR 33851). Further, there is little evidence that any additional safety benefits are being realized from such “studies.”

We believe that the burden of compiling and studying non-emergency events outweighs any potential safety benefit. The information is always available to the Resident Inspectors through the licensee’s corrective action program which calls for prompt identification and correction of conditions adverse to quality in accordance with 10 CFR 50 Appendix B, Criterion 16. Elimination of duplicative notifications would provide a safety benefit by allowing licensees to redirect technical and engineering resources away from procedural reporting compliance activities and toward assessment and corrective action activities immediately following non-emergency events. Event notification under 10 CFR 50.72 is a reporting requirement and does not affect licensees’ ability to physically secure reactor sites or protect special nuclear material. Therefore, the common defense and security is not impacted by the requested rule change

The purpose and objectives of 10 CFR 50.72 will continue to be fully met if the requested amendments are made to the regulation. As discussed above, the non-emergency notifications at issue in this petition are not necessary to enable the NRC staff to “act promptly to prevent or minimize possible injury to the public,” or “take necessary action” in response to certain events.

This is because NRC licensees have procedures in place for responding to non-emergency events. More specifically, they have procedures or practices in place that ensure notification of

the resident inspector for non-emergency events independent of the requirements of 10 CFR 50.72. The non-emergency notifications under 10 CFR 50.72 are therefore duplicative and serve no unique safety function. Far from being essential, these redundant reporting obligations create unnecessary burdens for both the licensee and the NRC staff, and should be eliminated.

Finally, the screening criteria for the NRC's Review of Administrative Rules in SECY 17-0119 (83 FR 19464) reflect not only the spirit of this petition but directly speaks to two of the proposed screening criteria. The FR Notice states that "[t]he review is intended to identify regulatory changes that are administrative in nature that will make the information submittal, record keeping, and reporting processes more efficient for the staff, applicants, and licensees." Criterion 2 is meant, in part, to screen in for review those regulatory requirements where reports or records contain information reasonably accessible to the agency from alternative resource. Criterion 3 screens in record keeping and reporting requirements that result in significant burden. It goes on to give thresholds of which the aggregate reporting burden far exceed. Even though this SECY provides the project construct for a similar purpose of this PRM, it is requested that this PRM, being focused and easily considered on its own, be provided due consideration outside of the long-term and broad project described in SECY 17-0119. The nuclear industry is in dire need of reducing unnecessary burden in these times of highly competitive energy markets.