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February 1, 2019

Ms. Annette L. Vietti-Cook
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Rulemaking and Adjudications Staff

Subject: Comments on Elimination of Immediate Notification Requirements for Non-Emergency Events [83FR58509; Docket ID NRC-2018-0201]

Project No: 689

Dear Ms. Vietti-Cook:

The Nuclear Energy Institute¹ (NEI) is pleased to respond to the NRC's request for public comments on our petition for rulemaking (PRM-50-116)² to eliminate non-emergency immediate notification requirements from 10 CFR 50.72. The NRC's request for comment, published in the Federal Register on November 20, 2018, listed five questions for the public to consider when commenting on the NEI petition. Our responses to the five questions are provided below.

1. Review of Event Notifications Published by NRC

"The NRC publishes the event notifications it receives from licensees on the NRC's public website every weekday. Do you or does your organization regularly review these event notifications? If so, please describe your use of this information and explain how the elimination of all non-emergency event notification requirements would affect you or your organization."

NEI Response: From the perspective of NEI members, the NRC's question appears intended to gauge the value of event notifications as a source of operating experience to be examined for potential lessons learned. The second part of the question appears to ask industry readers to assess the loss of this potential source of operating experience data.

¹ The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to 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 and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

² Letter from Bill Pitesa (NEI) to A. L. Vietti-Cook (NRC), "Petition to Amend 10 CFR 50.72, 'Immediate notification requirement for operating nuclear power reactors,'" August 2, 2018, ADAMS ML18247A204.

NEI member companies regularly review many sources of operating experience information. Those sources include event notifications submitted under 10 CFR 50.72 and published on the NRC website, the subject of the NEI petition. The industry's review of event notifications reflects the continuous learning culture common across the nuclear industry. For the purposes of gleaning operating experience, review of non-emergency event notifications is of little value because the notifications contain insufficient information on which to assess applicability to a particular facility or to base follow-up or corrective actions. Only when more substantial information becomes available, e.g., through a subsequent Licensee Event Report (LER), an NRC inspection report, or a report from INPO, can licensees decide whether the experience is relevant to their facility and warrants corrective action. Hence, eliminating the non-emergency event notifications would not materially affect the effectiveness of the operating experience program at U.S. nuclear facilities.

From the perspective of the public and third-party organizations potentially interested in nuclear industry events, the 10 CFR 50.72 non-emergency event notifications present the same challenges as described above for industry personnel who read them. The notifications do not provide enough information to make a meaningful decision about the significance or causes of, or response to, the event. In our view, the 10 CFR 50.72 non-emergency event notifications are of little value to the public.

2. Dependence on LERs Alone

"If all non-emergency event notification requirements were removed from § 50.72, the NRC would still receive licensee event reports within 60 days of discovery of the event as required by § 50.73 unless there is no corresponding § 50.73 report. These reports typically contain a more detailed account of the event and are released to the public in ADAMS after receipt. There is no corresponding § 50.73 report for § 50.72(b)(2)(xi) for a news release or notification to other government agencies, § 50.72(b)(3)(xii) for transportation of a radioactively contaminated person, and § 50.72(b)(3)(xiii) for major loss of emergency assessment capability. Would the public release of licensee event reports alone meet your needs? Please explain why or why not."

NEI Response: The NRC question appears to seek input on two implications of eliminating non-emergency event notifications: (1) for events having a corresponding LER requirement, how would the public fare with only an LER 60 days later than the immediate notification, and (2) for events not covered by an LER requirement, how would the public fare without any formal notice to NRC.

For the first implication (events having a corresponding LER requirement), the NRC's public release of the LER is sufficient and timely for acquiring the first tranche of useful information on a reportable occurrence. From the perspective of NEI members, licensees commonly take the LER as a cue to look further into the event through other sources of operating experience. Those other sources can include NRC inspection reports, INPO reports, peer-to-peer sharing at industry

meetings, etc. These other sources can be much more useful than the LER, as they often provide more detail and context needed for determining applicability and significance to a particular facility. Hence, from NEI's perspective, dependence on the LER in lieu of the non-emergency notification under 10 CFR 50.72 is not a problem for industry's operating experience review programs.

For the public's need to know, we consider the LER to be much more valuable than the 10 CFR 50.72 non-emergency event notifications. The LER provides more context and content than is possible with the immediate notifications, and thus gives the public a greater understanding of the event. The passage of time (up to 60 days from the initiating event) gives the licensee time to investigate the event, understand it, and determine how to correct any problems it reveals before submitting the LER.

For the second implication (non-emergency immediate notification events not covered by an LER requirement), the NRC will nonetheless be informed by its resident inspectors, as argued in the NEI petition (at § II.B.1). The NRC can then decide whether that information warrants public release. If it does, the NRC can decide how to share that information with the public through the many channels available to the agency, such as social media, traditional press releases, information notices, or other designated generic communications tools.

3. Most Burdensome Provisions of 10 CFR 50.72

"The petitioner asserts that the nonemergency notifications under § 50.72 "create unnecessary burdens for both the licensee and the NRC staff, and should be eliminated." What specific provisions in § 50.72, if any, do you consider to be especially burdensome (e.g., the timing requirements for submittal of event notifications, certain types of event notifications)? Please provide a supporting justification, as appropriate."

NEI Response: Licensees tell NEI that they labor over event notification criteria that include subjective terms such as "seriously" [10 CFR 50.72(b)(ii)(A)], "significantly" [10 CFR 50.72(b)(ii)(B)], or "could" [10 CFR 50.72(b)(v)]. The subjectivity of these terms can foster strenuous debates within the licensee organization or between the licensee and the NRC on the reportability of events falling within the apparent ambit of these criteria. In such situations, many person-hours may be spent simply writing and rewriting the notification to NRC and determining which boxes to check on the notification form. The waste of this effort is that it occurs long after the resident inspector has been made aware of the occurrence, i.e., long after any value of the prescribed event notification has been lost.

4. Contrary to Public Interest

"The petitioner asserts that § 50.72 non-emergency notifications are contrary to the best interests of the public and are contrary to the stated purpose of the regulation. Do you agree with this assertion? Please explain why or why not."

NEI Response: NEI stands by key points made in its petition which answer this question:

- a) Eliminating non-emergency notifications would allow licensees to redirect technical and engineering resources from making these notifications toward more valuable assessment and corrective action responses. Keeping licensee and NRC resources focused on what matters most to safety is clearly in the public interest.
- b) The resident inspector, because of his or her knowledge of the facility, its operations and its people, is a more efficient and more effective means of informing NRC (and thus the public) than relying on a finite and static piece of paper faxed to the NRC as was state-of-the-art 40 years ago. Eliminating duplicative communications, i.e., a paper report to NRC headquarters versus communicating with the resident inspector(s) onsite at the facility, avoids the potential for confusion created by the different limits and contents of the two means of communications. Maintaining focus on the simplest and most timely means of communication with NRC is clearly in the public interest. For non-emergency event notifications, that is the resident inspector.

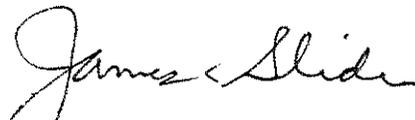
5. Alternatives

"Are there alternatives to the petitioner's proposed changes that would address the concerns raised in the petition while still providing timely event information to the NRC and the public? Please provide a detailed discussion of any suggested alternatives."

NEI Response: NEI stands by its original proposal to eliminate non-emergency notifications under 10 CFR 50.72 and sees no alternatives that would better address its concerns nor better serve the public interest.

If you have any questions on the contents of this letter, please contact me at jes@nei.org or 202-739-8015.

Sincerely,



James Slider

c: Mr. Daniel I. Doyle, NMSS/DRM/RRPB