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Elimination of Immediate Notification Requirements for Non-Emergency Events

Comment On: NRC-2018-0201-0002

Elimination of Immediate Notification Requirements for Non-Emergency Events

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Submitter Information

Name: Tony Zimmerman

Address:

Duke Energy
526 South Church Street
Charlotte, NC, 28202

Email: tony.zimmerman@duke-energy.com

General Comment

Dear Ms. Vietti-Cook:

By Federal Register Notice (83 FR 58509) dated November 20, 2018, the Nuclear Regulatory Commission (NRC) requested comments on a petition for rulemaking by the Nuclear

Energy Institute (NEI) to eliminate immediate notification requirements for non-emergency events. Duke Energy fully endorses NEI's petition and requests that the NRC initiate rulemaking to implement

the proposed changes. The current immediate notification requirements for non-emergency events are redundant to the existing communications that currently take place between licensees and the onsite resident inspectors and are not necessary for the NRC to fulfill its duties. In addition to the comments attached in Attachment1_Duke_Energy_Responses, Duke Energy

respectfully requests that NRC take a broader view toward modernizing and reconsidering all reporting requirements. There are close to 300 different reports required by Title 10 of the code of federal regulations (CFR). Many of these may no longer serve the intended purpose, meet the original intent or may no longer be necessary given current industry programs that serve all licensees such as the personnel access data system (PADS).

The NRC requested comments in the form of response to five questions. The Duke Energy responses to the five questions are contained in Attachment1_Duke_Energy_Responses.

Thank you for the opportunity to comment.
Tony Zimmerman

Attachments

Attachment1_Duke_Energy_Responses

The NRC requested comments in the form of response to five questions. The Duke Energy responses to the five questions are provided below, which were uploaded as an attachment titled Attachment1_Duke_Energy_Responses, to the Regulations.gov website for Docket Folder NRC-2018-0201.

1. 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.

The elimination of non-emergency event notifications would not adversely impact Duke Energy because event notifications do not provide sufficient insight to address a similar situation at Duke Energy's sites. Duke Energy does review event notifications, but because notifications do not include actionable information, they cannot be utilized to preclude a similar event until more information is available. Licensee event reports (LERs) often do not contain actionable information either. The main driver for Duke Energy to react to operating experience (OE) from other sites is if there is a performance deficiency (PD) related to the event. If so, Duke Energy would then review the PD to determine if it might be applicable to a Duke Energy site. Since the PD will be discussed in the inspection report, which gives the NRC's insights on the event, the inspection report is more valuable for Duke Energy's consideration than the event notification and the LER. The inspection reports are also available to the general public, and provide information regarding the final disposition of the event. Eliminating non-emergency reports would not impact either the dissemination of the information that Duke Energy uses to preclude a similar event or the ability of the general public to obtain information regarding the event.

2. 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.

The public release of LERs alone does not meet Duke Energy's needs, but the missing information is found in inspection reports or in direct interaction with the relevant Licensee, not in event notifications. For event notifications that have a corresponding LER, Duke Energy relies on the inspection report rather than the LER to obtain the NRC's perspective on the issue. The inspection report describes the event and the PD, along with the NRC commentary on the event, while the LER mainly focuses on a description of the event, and the cause, which may or may not articulate the site's view of the PD. It is more valuable to Duke Energy to understand the NRC insights of the PD as described in the inspection report in order to preclude a similar event at a Duke Energy site.

For the event notifications referenced in the question that do not have a corresponding 10 CFR 50.73 LER, the press release, or information available from the other government agency, is sufficient to meet Duke Energy's needs.

3. 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.

Preparing and approving event notifications are not a cost-beneficial use of resources. Some event notifications, such as plant scrams and ESF actuations are straight-forward. Other event notification criteria include more subjective words as “significantly” or “seriously” or “could.” These subjective words, along with the licensee’s concern regarding receiving NCVs for not reporting the same way that an inspector would, place an undue burden on performing the notification. In these cases, an inordinate number of man-hours are spent on administrative tasks such as wording and making sure the correct boxes are checked. These hours are often spent after the NRC resident inspector has already been informed of the event, which results in a time-intensive, redundant effort that distracts from recovering from the event.

NEI has recently estimated, based on input from various utilities, that it takes approximately 10 man-hours on average to prepare a notification for a straightforward situation and 25 or more man-hours for notifications on more complicated situations. These estimates include the total time spent (a) determining a course of action (e.g., engineering evaluation of the condition or situation; engineering/operations determination of the notification that is warranted and scope of review required; and management supervision during the event); (b) completing paperwork (e.g., gaining internal approvals); and (c) making the notification. In addition, these estimates do not include follow-up actions (e.g., causal investigation and corrective action). Feedback from NEI members indicates that on average each licensee submits five notifications a year. Therefore, depending on event complexity, a licensee may spend 50 to 125 man-hours per year on event notifications alone. Additionally, events not requiring formal notification fall outside of these estimates. With 98 operating units in the US fleet submitting on average five notifications annually, this means that the fleet-wide burden ranges from about 5,000 to more than 12,250 man-hours for notifications. Duke Energy has not done a formal study in support of those estimates; but believes that they are conservative, particularly when fleet-based peer reviews are factored in. In addition, preparing, reviewing, and approving notifications for 10 CFR 50.72 require control room staff attention and management attention on completing these administrative requirements, while at the same time possibly overseeing the event response.

Furthermore, in addition to the burden of notifications made to NRC on Form 361, licensees also bear the burden of evaluating events that could potentially require use of Form 361. A typical licensee would complete 30 to 40 of these evaluations (so-called Reportability Evaluation Worksheets) each year to document conclusions on events that are ultimately determined not to require notifications to NRC.

4. 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.

Yes, 10 CFR 50.72 non-emergency notifications are contrary to the best interests of the public. 10 CFR 50.72 non-emergency notifications are contrary to the best interests of the public because finite resources of both the licensee and the NRC are expended that could be put to better use to recover from the event. The public would be better served if this effort was put into recovering from the event rather than into a resource-intensive, redundant effort.

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 current licensee reporting obligations relating to non-emergency events.

Licensees contact their resident inspectors when making a 10 CFR 50.72 non-emergency notification which is governed by a licensee's procedures and practices or an agreement with the resident inspectors. The information provided to the resident inspectors is typically more detailed than that provided during the 10 CFR 50.72 non-emergency notifications, because the resident inspectors are well-positioned to understand, evaluate, and take necessary actions in response to non-emergency events. For events that reach a higher level of interest, the resident inspectors would contact the Region, possibly before the NRC Operations Center is contacted. 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. The 10 CFR 50.72 non-emergency notifications may present an unnecessary distraction for the licensee and the NRC from responding to the event.

With present day near real-time communication between the plant and the resident inspectors made possible by the use of cell phones and the fact that at least two NRC resident inspectors are assigned to each U.S. commercial nuclear plant, this practice is redundant, particularly in regard to non-emergency events. 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. As mentioned in NEI's petition to amend 10 CFR 50.72, utilizing modern technology (e.g., email, text messaging, web-based forms) may help alleviate some of the burden of the information collection on respondents.

5. 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.

There may be 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; however, the method proposed by the petitioner is a good one.

The petitioner describes the already existing method for continuing to provide timely event information to the NRC, which is redundant to the less efficient event notification system. Rather than pursuing other recommendations that would unnecessarily delay meaningful burden reduction, Duke Energy concurs with the method proposed by the petitioner.

Thank you for the opportunity to comment.

Tony Zimmerman

Manager – Nuclear Regulatory Programs

Duke Energy Corporation

Office: 980.373.2520

tony.zimmerman@duke-energy.com