

DOCKET NUMBER
PROPOSED RULE **PR 20,30,40 & 70**
(55FR19890)

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ADVANCED NUCLEAR FUELS CORPORATION

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USNRC

REGULATORY COMPLIANCE

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July 12, 1990
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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

U.S. Nuclear Regulatory Commission
Attn: Docketing and Service Branch
Secretary of the Commission
Washington, DC 20555

Dear Sir:

PROPOSED RULE ON NOTIFICATIONS OF INCIDENTS

Advanced Nuclear Fuels Corporation (ANF) has reviewed the proposed rule entitled, "Notifications of Incidents," which was published in the Monday, May 14, 1990 edition of the Federal Register, Vol. 55, No. 93, p. 19890.

ANF is a supplier of light water reactor fuel and related services. It operates a low-enriched uranium fuel fabrication plant which is located in Richland, Washington. It has been an NRC licensee for nearly 20 years.

The comments which are given below are in response to the NRC's request for comments on the four subject areas described in Column 3, p. 19890 of the Federal Register Notice.

1. Appropriateness of the Proposed Amendments

We believe that the proposed deletions of the paragraphs in Part 20.403 which relate to loss of operation and damage to property are appropriate. In our judgment, those criteria are normally not even remotely related to the public health and safety. The appropriateness of the proposed additional reporting requirements is discussed later in this letter.

2. Expected Number of Licensee Reports

We expect that the number of incident reports we might generate as a result of the proposed reporting requirements would range from three to six reports a year.

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3. Minimization of Number of Reports

Making generic reporting requirements a matter of regulation can be detrimental to report minimization. The problem is that in the attempt to make the reporting requirements appropriate for all licensees, most end up not being appropriate for any licensee. Implementation of generic requirements depends upon the judgment of the various individuals involved. It can result in interpretation problems between inspectors and licensees due to the lack of specificity of generic requirements. This can lead to excessive reporting by the licensees of nonhazardous events in an effort to avoid confrontations and violations.

We recognize the need for certain events to be brought to the attention of the NRC and other licensees; however, we believe that there are several ways to minimize the number of incident reports and not exclude events which require prompt action by the NRC. One approach would be to put the desired action levels and reporting requirements in the individual licenses which are specific to the licensee rather than to enact generic reporting regulations for all licensees.

For example, if certain hazards surround the use of UF₆ cylinders, address action levels and reporting requirements for those few licensees who use UF₆ cylinders. The prime safety features necessary for use of UF₆ cylinders are limiting the mass of contained UF₆, the maximum temperature, periodic inspection and leak containment. The generic reporting requirement in the proposed regulations which was supposed to pertain to a bulging UF₆ cylinder, did not, in our opinion, relate to such an event.

In another example, a hole in a HEPA filter is not necessarily a significant hazard to the public. With all of the HEPA filters in use, it is not unusual to find a hole in one. This does not mean that filter failure is incipient or that the radionuclide concentration in the exhaust air is high. The activity of the air being exhausted from the stack is the important fact. A requirement that is appropriate is a stack sampling program and a set of action levels which ensure containment. Such features should be a part of individual licenses. They would not be the same for all licensees.

Thus, one method of reducing the number of incidents reported and not exclude events which require prompt action by the NRC would be to put action levels and reporting requirements in the individual licenses specific to that licensee. This would minimize the number of nonhazardous reports and assure that incidents requiring prompt NRC action would be reported.

Another approach would be to reduce the number and type of licensees subject to the proposed generic reporting requirements. For example, we submit that those licensees required to have an Emergency Plan under Part 70.22 already have sufficient checks and balances and event reporting requirements within the

Plan and the license which alerts the NRC to potential public safety events. Those licensees should be exempt from the proposed reporting requirements. The generic requirements could then be tailored towards the other smaller, less complicated licensee systems. This scheme could provide for more specific reporting of real hazards, reduce reporting of nonhazards, and aid interpretations of requirements by regulators and licensees.

As written and intended, the proposed reporting requirements result in a very significant excess over and above the few real incidents, and all significant incidents might not be reported.

4. Reporting of Events Requiring Prompt NRC Actions

There might be events which threaten the public health and safety or environment but these would be reported under the current requirements of our Emergency Plan or specific license. If there is specific health and safety information the Commission believes it needs for public safety, we believe those requirements should be spelled out in the individual licenses rather than enacting generic reporting regulations.

We also have difficulty relating the proposed additional reporting requirements to events which would affect the public health and safety or the environment. In our minds, proposed Parts 70.50(b)(1) and (b)(3) and the corresponding examples contained in the Supplementary Information do not describe events which threaten the public health and safety or the environment. In fact, the examples of contamination events do not appear to represent events requiring prompt reporting to the NRC. For material licensees such as ANF who have extensive radiological safety programs, the handling of such contamination events is clearly the responsibility of the licensee and action levels are normally stated in the specific license. The prompt reporting requirements proposed for Part 70.50(b)(1) are, in our opinion, counterproductive to strong licensee programs. As a result, we recommend that if generic reporting requirements are enacted that these two proposed Parts, 70.50(b)(1) and (b)(3), be withdrawn.

Similarly, if proposed Parts 70.50(a), (b)(2) and (b)(4) are to be issued as generic requirements, we believe that qualifying language should be added to restrict those events to consequences which could affect the public health and safety or the environment. We believe that those proposed Parts should be rewritten and reissued under a new comment period. As currently written, it is very difficult to determine precisely which events need to be reported; e.g., do all fires involving uranium, regardless of quantity, degree of containment, or inherent stability of the material need to be reported?

In summary, we support the deleting amendments proposed for 10 CFR Part 20.403 in that they remove criteria that did not describe events which threaten the public health and safety or the environment. We do not, however, support the additional notification requirements proposed for Parts 30, 40 and 70. We do not believe that the enactment of regulations for

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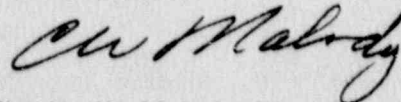
generic reporting requirements is the most effective way of establishing reporting requirements for incidents. We believe that the most effective way for the Commission to obtain this desired information is to establish specific action and reporting requirements in the individual licenses. We recommend that the proposed reporting requirements for Parts 30, 40 and 70 be withdrawn and instead, specific requirements be incorporated in individual licenses.

Alternatively, we recommend that the Commission exempt those licensees with an approved Emergency Plan meeting the requirements for Part 70.22(i)(1)(ii) from the notification requirements of proposed Part 70.50. The generic reporting requirements could then be tailored toward the other smaller, less complicated licensee systems. This could provide more specific reporting of real hazards, reducing reporting of nonhazards, and aid interpretations of requirements by regulators and licensees.

If none of the above approaches are taken, we recommend that proposed Parts 70.50(b)(1) and (b)(3) be withdrawn, and that Parts 70.50(a), (b)(2), and (b)(4) be rewritten to restrict the reportable events to those with consequences which affect the public health and safety or the environment and be reissued under a new comment period.

We appreciate this opportunity to participate in the rulemaking process.

Very truly yours,



Charles W. Malody, Manager

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