June 27, 1983

SECY-83-256

RULEMAKING ISSUE
(Affirmation)

For: The Commissioners

From: William J. Dircks
Executive Director for Operations

Subject: FINAL RULE ON IMMEDIATE NOTIFICATION OF SIGNIFICANT EVENTS AT OPERATING NUCLEAR POWER REACTORS

Purpose: To obtain Commission approval for publication of the final rule in the Federal Register.

Category: This paper covers a minor policy matter.

Issue: Whether the NRC should implement the subject rule in the manner proposed.

Discussion: 10 CFR 50.54 - Section 201 of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1980 (Pub. L. 96-295) provides:

> (a) Section 103 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following new subsection: "f. Each license issued for a utilization facility under this section or section 104 b. shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 187 of this Act, the Commission

Contact: Eric W. Weiss, IE
492-4973

8308150379 830728
PDR 10CFR
PT-9.7 PDR

> shall promptly amend each license for a utilization facility issued under this section or section 104 b. which is in effect on the date of enactment of this subsection to include the provisions required under this subsection."

The Conference Report accompanying Pub. L. 96-295 stated that the conferees recognized the need for predictability by licensees in determining those situations which would require immediate notification. The conferees further intended that the Commission establish specific guidelines for the identification of accidents which could result in an unplanned release of radioactivity in excess of allowable limits, and that the immediate notification requirement would take effect when such guidelines were established. H. Conf. Rep. No. 96-1070, 96th Cong., 2d Sess., 30 (June 4, 1980).

Accordingly, the Commission published a proposed amendment to 10 CFR § 50.54 that would add an appropriate notification requirement as a condition in the operating license of each nuclear utilization facility licensed under sections 103 and 104b. of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §§ 2133, 2134b.* These facilities generally are the commercial nuclear power facilities which produce electricity for public consumption. Research and test reactors are not subject to the proposed license condition as they are licensed under sections 104a. or 104c. of the Act. Under the amendment to 10 CFR 50.54, licensees with section 103 or 104b. licenses would be required, as a condition of their respective operating licenses, to notify the NRC immediately of any event set forth in 10 CFR 50.72. The revisions to § 50.72, as set forth below, were made with Section 201 in mind. As a result, these revisions would constitute the guidelines for predictability contemplated by Congress as a prerequisite to making any changes in license conditions for section 103 and 104b. facilities.

10 CFR 50.72 - On May 4, 1979, Commissioner Kennedy sent a memorandum to L. V. Gossick on the subject of Prompt and Accurate Notification to NRC of Unusual Events at Operating

*This would be accomplished by adding a new paragraph to § 50.54, the provisions of which are deemed to be conditions in every license. The staff would not amend each license individually.

Reactors. In the memo, he pointed out the lack of effective and timely communication between licensees and the NRC regarding unusual events at operating reactor facilities and indicated that this situation must be corrected immediately. J. G. Davis and H. R. Denton replied to Commissioner Kennedy by memorandum dated June 1, 1979 indicating the steps that were being taken to rectify the difficulties in communication. The steps included the installation of dedicated telephone lines and the issuance of an IE Bulletin providing guidance to licensees concerning what events should be immediately reported. The memorandum also recommended the initiation of rulemaking to provide binding requirements.

The purpose of the rule was to provide the Commission with immediate reporting of 12 types of significant events where immediate Commission action to protect the public health and safety may be required or where the Commission needs accurate and timely information to respond to heightened public concern.

Rulemaking was initiated immediately thereafter, and resulted in an immediately effective regulation published in the Federal Register on February 29, 1980 (45 FR 13434). Although the regulation, 10 CFR 50.72, was published as immediately effective without a prior public comment period, the public was invited to submit its views and comments. Many commenters believed the rule was in some respects either vague and ambiguous or overly broad. The staff held a meeting with licensee Control Room Shift Supervisors that elicited additional comments supporting the need for narrowing and clarifying 10 CFR 50.72.

After experience with the rule, the Commission published in the Federal Register a notice of proposed rulemaking on December 21, 1981 (46 FR 61894) and invited public comment. The proposal was made to meet two objectives: Change 10 CFR 50.54 to implement Section 201 of the NRC's 1980 Fiscal Year Authorization Act and change 10 CFR 50.72 to more clearly specify the significant events requiring licensees to immediately notify NRC.

The changes to § 50.72 will accomplish the following:

1. Narrow the scope of reporting and raise some reporting thresholds in order to eliminate unnecessary reports such as worker injuries not involving radiation, inconsequential low level releases, and minor security problems.

2. Provide terminology, phrasing and reporting thresholds consistent with the closely associated § 50.73 Licensee Event Report (LER) Rule.

3. Permit modifications of emergency planning regulations without further amendment of § 50.72. (The staff believes the threshold at which emergencies are declared is too low and amendment of emergency planning regulations is warranted.)

4. Clarify several reporting criteria in § 50.72 by eliminating certain phrases that have been found either vague or ambiguous.

The current scheme for licensees' emergency plans includes four Emergency Classes. When the licensee declares one of the four Emergency Classes, it must report this to the Commission as required by § 50.72. The lowest of the four Emergency Classes, Notification of Unusual Event, has resulted in unnecessary emergency declarations. Events that fall within the Unusual Event Class have been neither emergencies in themselves nor precursors of more serious events that are emergencies. Although changes to the definition of the Emergency Classes are not being made in this rulemaking, a new reporting scheme that would ultimately eliminate "Unusual Event" as an Emergency Class requiring notification can be adopted consistent with this rule. A proposed rulemaking which would redefine the Emergency Classes in § 50.47, Appendix E of Part 50 and NUREG-0654, is in preparation and will be published for public comment in 1983. This final rulemaking makes possible the elimination of "Unusual Event" as an emergency class without further amendment of § 50.72 by including in the category of non-Emergencies the subcategory of "one-hour reports."

Enclosure 1 is the Federal Register Notice of Rulemaking incorporating all of these changes as well as the previously-mentioned change to § 50.54.

Enclosure 2 is the staff's summary and resolution of the public comments received on the various elements in the rule.

Cost Estimate: The staff does not anticipate that there will be any significant additional costs to the NRC or to licensees associated with the rule changes; however, the staff would like to point out the costs that have been associated with establishing and implementing a "prompt notification system."

1. Eight staff-years per year of NRC staff effort for manning and maintaining the telephones for notification and $1.5 million per year for dedicated telephone lines.

2. Cost for the entire industry of about $45,000 per year in operators' time to make telephone notifications required by §50.72.

Recommendations: That the Commission:

1. Approve the notice of final rulemaking (Enclosure 1) modifying 10 CFR 50.54 and 50.72.

2. Note:

   a. That a letter such as that in Enclosure 3 will be sent to the appropriate Congressional committees.

   b. That the notice of final rulemaking (Enclosure 1) will be published in the Federal Register; and that a copy of the Federal Register notice will be sent to all applicants, licensees, and state governments.

   c. That the information requirements contained in this rule have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act, Pub. L. 96-511 (clearance number 3150-0011).

   d. That the final rule contains a statement that the Commission's Regulatory Flexibility Analysis concludes that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities, pursuant to the Regulatory Flexibility Act of 1980, § 605(b).

   e. That pursuant to § 51.5(d)(2) of Part 51 of the Commission's regulations, neither an environmental impact statement, a negative declaration, nor an environmental impact appraisal need be prepared in connection with the amendments since the amendments are nonsubstantive and insignificant from the standpoint of environmental impact.

   f. That a Regulatory Analysis has been prepared (Enclosure 4).

g. That the ACRS has been informed of the final rule change.

h. That a public announcement of the final rule will be made (Enclosure 5).

Sunshine Act: Recommend consideration at an open meeting.

Scheduling: For early consideration.

William J. Dircks
Executive Director for Operations

Enclosures:
1. Federal Register Notice of Effective Rule
2. Staff's Summary and Resolution of Public Comments
3. Draft Congressional Letter
4. Regulatory Analysis
5. Public Announcement
6. Federal Register Notice of Proposed Rulemaking, 12/21/81, (46 FR 61894)
7. Staff Summary

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Wednesday, July 13, 1983.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Wednesday, July 6, 1983, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of July 18, 1983. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

DISTRIBUTION:
Commissioners
OGC
OPE
OCA
OIA
OPA
REGIONAL OFFICES
EDO
ELD
ACRS
ASLBP
ASLAP
SECY

ENCLOSURE 1

[7590-01]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Immediate Notification Requirements of Significant Events

At Operating Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations which require timely and accurate information from licensees following significant events at commercial nuclear power plants. Experience with existing requirements and public comments on a proposed revision of the rule indicate that the existing regulation should be amended to clarify reporting criteria and to require early reports only on those matters of value to the exercise of the Commission's responsibilities. The amended regulation will clarify the list of reportable events and provide the Commission with more useful reports regarding the safety of operating nuclear power plants.

EFFECTIVE DATE:

FOR FURTHER INFORMATION CONTACT: Eric W. Weiss, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Telephone (301) 492-4973.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

On February 29, 1980, the Commission amended its regulations without prior notice and comment to require timely and accurate licensee reporting of information following significant events at operating nuclear power reactors (45 FR 13434). The purpose of the rule was to provide the Commission with immediate reporting of twelve types of significant events where immediate Commission action to protect the public health and safety may be required or where the Commission needs accurate and timely information to respond to heightened public concern. Although the rule was made immediately effective, comments were solicited. Many commenters believed the rule was in some respects either vague and ambiguous or overly broad.

After obtaining experience with notifications required by the rule, the Commission published in the FEDERAL REGISTER a notice of proposed rulemaking on December 21, 1981 (46 FR 61894) and invited public comment. The proposal was made to meet two objectives: change 10 CFR 50.54 to implement Section 201 of the NRC's 1980 Fiscal Year Authorization Act and change 10 CFR 50.72 to more clearly specify the significant events requiring licensees to immediately notify NRC.

The problems and issues which this rulemaking addresses and the solutions that it provides can be summarized in five broad areas:

1. Authorization Act for FY80

Section 201 of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1980 (Pub. L. 96-295) provides:

> "(a) Section 103 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following new subsections:
> "f. Each license issued for a utilization facility under this section or section 104b. shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 187 of this Act, the Commission shall promptly amend each license for a utilization facility issued under this section or section 104b. which is in effect on the date of enactment of this subsection to include the provisions required under this subsection."

Accordingly, this rulemaking includes an amendment to 10 CFR §50.54 that would add an appropriate notification requirement as a condition in the operating license of each nuclear utilization facility licensed under section 103 or 104b. of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §§2133, 2134b. These facilities generally are the commercial nuclear power facilities which produce electricity for public consumption. Research and test reactors are not subject to the license condition as they are licensed under section 104a. or 104c. of the Act. Under the amendment to 10 CFR 50.54, licensees falling under sections 103 or 104b. would be required, as a condition of their respective operating licenses, to notify the NRC immediately of events specified in 10 CFR 50.72.

2. Unnecessary Reports

Several categories of reports required by §50.72 are not useful to the NRC. Among these categories are reports of: worker injury, small radioactive releases,

and minor security problems. For example, reports are presently required if a worker onsite experiences chest pains or another illness not related to radiation and is sent to a hospital for evaluation; or if the vent stack monitor moves upward a few percent yet radiation levels remain 100,000 times below technical specification limits; or if the security computer malfunctions for a few minutes.

This rulemaking eliminates such reporting requirements from §50.72 and in general clarifies and narrows the scope of reporting. However, revision of Part 73 of the Commission's regulations is necessary to resolve all problems with security reports.

3. Terminology, Phrasing, and Reporting Thresholds

The various sections of 10 CFR 50 have different phrasing, terminology, and thresholds in the reporting criteria. Even when no different meaning is intended a change in wording can cause confusion.

This rulemaking has been carefully written to use terminology, phrasing, and reporting thresholds that are either identical to or similar to those in §50.73, whenever possible. Other conforming amendments to Parts 20, 21, 73, and in §50.55 and Appendix E of Part 50 are under development.

As a parallel activity to the preparation of §50.72, the Commission is promulgating a Licensee Event Report (LER) Rule (§50.73) which would require licensees for operating nuclear power plants to prepare detailed written reports for certain events. On May 6, 1982, the NRC published in the FEDERAL REGISTER (47 FR 19543) a notice of Proposed Rulemaking that describes the codification of the existing LER system.

4. Coordination with Licensee's Emergency Plan

The current scheme for licensees' emergency plans includes four Emergency Classes. When the licensee declares one of the four Emergency Classes, it must report this to the Commission as required by §50.72. The lowest of the four Emergency Classes, Notification of Unusual Event, has resulted in unnecessary emergency declarations. Events that fall within the Unusual Event class have been neither emergencies in themselves nor precursors of more serious events that are emergencies.

Although changes to the definition of the Emergency Classes are not being made in this rulemaking, a new reporting scheme that would ultimately eliminate "Unusual Event" as an Emergency Class requiring notification can be adopted consistent with this rule. A proposed rulemaking which would redefine the Emergency Classes in §50.47 is in preparation and may soon be published for public comment. This final rulemaking makes possible the elimination of "Unusual Event" as an emergency class without further amendment of §50.72 by including in the category of non-Emergencies the subcategory of "one-hour reports."

5. Vague or Ambiguous Reporting Criteria

The reporting criteria in §50.72 have been revised in order to clarify their scope and intent. The criteria were revised for the proposed rule and in response to public comment. The "Analysis of Comments" portion of this FEDERAL REGISTER notice describes in more detail specific examples of changes in wording intended to eliminate vagueness or ambiguity.

II. ANALYSIS OF COMMENTS

Twenty letters of comment were received in response to the FEDERAL REGISTER notice published on December 21, 1981 (46 FR 61894)[1]. Of the twenty letters of comment received, the vast majority (15 of 20) were from utilities owning or operating nuclear power plants. This FEDERAL REGISTER notice described the proposed revision of 10 CFR 50.72, "Notification of Significant Events," and 10 CFR 50.54, "Conditions of Licenses." A discussion of the more significant comments follows:

Conditions of Licenses (§50.54)

A few commenters said that the "Commission already has the ability to enforce its regulations and does not need to incorporate the items as now proposed into conditions of license."

The Commission has decided to promulgate the proposed revision of §50.54, "Conditions of Licenses," in order to satisfy the intent of Congress as expressed in Section 201 of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1980. This Act and its relationship to §50.54 are discussed in detail in the FEDERAL REGISTER notice for the proposed rule (46 FR 61894).

Coordination with other Reporting Requirements (Final Rule §50.72)

Seven commenters said that the NRC should coordinate the requirements of 10 CFR 50.72 with other rules, with NUREG-0654, "Criteria for Preparation and

---

[1]Copies of these documents are available for public inspection and copying for a fee the NRC Public Document Room, 1717 H Street, N. W., Washington, D. C. 20555

Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Plants," and with Regulatory Guide 1.16, "Reporting of Operating Information..." Many of these letters identified overlap, duplication, and inconsistency among NRC's reporting requirements.

The Commission is making a concerted effort to ensure consistent and coordinated reporting requirements. The requirements contained in the revision of 10 CFR 50.72 are being coordinated with revision of §50.73, §50.55(e), Appendix E of Part 50, §20.402, §73.71, and Part 21.

Citing 10 CFR 50.72 as a Basis for Notification (Final Rule §50.72(a)(4))

A few commenters objected to citing §50.72 as a basis when making a telephone notification. The letters of comment questioned the purpose, legal effect, and burden on the licensee.

The Commission does not believe that it is an unnecessary burden for a licensee to know and identify the basis for a telephone notification required by §50.72. There have been many occasions when a licensee could not tell the NRC whether the telephone notification was being made in accordance with Technical Specifications, 10 CFR 50.72, some other requirement, or was just a courtesy call. Unless the licensee can identify the nature of the report, it is difficult for the NRC to know what significance the licensee attaches to the report, and it becomes more difficult for the NRC to respond quickly and properly to the event.

Immediate Shutdown (Final Rule §50.72(b)(1)(i))

Several commenters objected to the use of the term, "immediate shutdown," saying that Technical Specifications do not use such a term.

The term is used in some but not all Technical Specifications. Consequently, the Commission has revised the reporting criterion in question. The final rule requires a report upon the initiation of any nuclear power plant shutdown required by Technical Specifications.

Plant Operating and Emergency Procedures (Final Rule §50.72(b)(1)(ii))

Several commenters said that the reporting criteria should not make reference to plant operating and emergency procedures because:

a. It would take operators too long to decide whether a plant condition was covered by the procedures,

b. The procedures cover events that are not of concern to the NRC, and

c. The procedures vary from plant-to-plant.

While the plant operating personnel should be familiar with plant procedures, it is true that procedures vary from plant-to-plant and cover events other than those which compromise plant safety. However, the wording of the reporting criteria has been modified (§50.72(b)(1)(ii)) in the final rule) to narrow the reportable events to those that significantly compromise plant safety. Notwithstanding the fact that the procedures vary from plant-to-plant, the Commission has found that this criterion results in notification indicative of serious events. The narrower, more specific wording will make it possible for plant operating personnel to identify reportable events under their specific operating procedures.

Building Evacuation (Final Rule §50.72(b)(1)(iii))

Ten commenters said that the proposed §50.72(b)(6)(iii) regarding "any accidental, unplanned or uncontrolled release resulting in evacuation of a building" was unclear and counterproductive in that it could cause reluctance to evacuate a building. Many of these commenters stated that the reporting of in-plant releases of radioactivity that require evacuation of individual rooms was inconsistent with the general thrust of the rule to require reporting of significant events. They noted that minor spills, small gaseous waste releases, or the disturbance of contaminated particulate matter (e.g., dust) may all require the temporary evacuation of individual rooms until the airborne concentrations decrease or until respiratory protection devices are utilized. They noted that these events are fairly common and should not be reportable unless the required evacuation affects the entire facility or a major part of it.

The Commission agrees. The wording of this criterion has been changed to include only those events which significantly hamper the ability of site personnel in performance of duties necessary for safe operation.

One commenter was concerned that events occurring on land owned by the utility adjacent to its plant might be reportable. This is not the intent of this reporting requirement. The NRC is concerned with the safety of plant and personnel on the utility's site and not with non-nuclear activities on land adjacent to the plant.

Explicit Threats (Final Rule §50.72 (b)(1)(vi))

A few commenters said that the intent of the term, "explicitly threatens," was unclear. Those commenting wondered what level of threat was involved. The

term, "explicitly threatens," has been deleted from the final rule. Instead, the final rule refers to "any event that threatened the safety of the nuclear power plant" (§50.72(b)(1)(i)(F)), and gives examples so that it is clear the Commission is interested in real or actual threats as opposed to threats without credibility.

Notification Timing (Final Rule §50.72(b)(2))

The commenters generally had two points to make regarding the timing of reports to the NRC. First, the comments supported notification of the NRC after appropriate State or local agencies have been notified. Second, two commenters requested a new four-to six-hour report category for events not warranting a report with one hour.

Allowing more time for reporting some non-Emergency events would lessen the impact of reporting on the individuals responsible for maintaining the plant in a safe condition. Limiting the extension of the deadline to four hours ensures that the report is made when the information is fresh in the minds of those involved and that it is more likely to be made by those involved rather than by others on a later shift.

Other, more significant non-Emergency events and all declarations of an Emergency must continue to be reported within one hour. The one-hour deadline is necessary if the Commission is to fulfill its responsibilities during and following the most serious events occurring at operating nuclear power plants. A deadline shorter than one hour was not adopted because the Commission does not want to interfere with the operator's ability to deal with an accident or transient in the first few critical minutes.

Therefore, based on these comments and its experience, the NRC has established a "four-hour report," as was suggested.

Reactor Scrams (Final Rule §50.72(b)(2)(ii))

Several commenters said that reactor scrams, particularly those scrams below power operation, should not require notification of the NRC within one hour.

In response to these comments, the Commission has changed the reporting deadline to four hours. However, the Commission does not regard reactor scrams as "non-events," as stated in some letters of comment. Information related to reactor scrams has been useful in identifying safety-related problems. The Commission agrees that four hours is an appropriate deadline for this reporting requirement because these events are not as important to immediate safety as are some other events.

Radioactive Release Threshold (Final Rule §50.72(b)(2)(iv))

Several commenters said that the threshold of 25% of allowable limits for radioactive releases was too low for one-hour reporting.

Based upon these comments and its experience, the Commission has changed the threshold of reporting to those releases exceeding two times Part 20 concentrations when averaged over a period of one hour. This will eliminate reports of releases that represent negligible risk to the public.

The Commission has found that low level radioactive releases below two times Part 20 concentrations do not, in themselves, warrant immediate radiological response.

This paragraph requires the reporting of those events that cause an unplanned or uncontrolled release of a significant amount of radioactive material to offsite areas. Unplanned releases should occur infrequently; however, when they occur, at least moderate defects have occurred in the safety design or operational control established to avoid their occurrence and, therefore, these events should be reported.

Personnel Radioactive Contamination (Final Rule §50.72(b)(2)(v))

Several commenters objected to the use of vague terms such as "extensive onsite contamination" and "readily removed" in one of the reporting criteria of the proposed rule.

Based on this comment, new criteria have been prepared that use more specific terms. For example, one new criterion requires reporting of "Any event requiring transport of a radioactively contaminated person to an offsite medical facility." Experience with telephone notifications made to the NRC Operations Center suggests that this new criterion will be easily understood.

III. PARAGRAPH-BY-PARAGRAPH EXPLANATION OF THE RULE

Paragraph 50.72(a) reflects some consolidation of language that was repeated in various subparagraphs of the proposed rule. In general, the intent and scope of this paragraph do not reflect any change from the proposed rule.

Several titles were added to this and subsequent sections. For example, paragraph 50.72(b) is titled "Non-Emergency Events" and it has two subparagraphs: (b)(1), titled, "One-Hour Reports" and (b)(2), "Four-Hour Reports." The events which have a one-hour deadline are those having the potential to escalate to an Emergency Class. The four-hour deadline is explained in the analysis of paragraph(b)(2).

Paragraph 50.72 (b)(1)(i) requires reporting of "The initiation of any nuclear plant shutdown required by Technical Specifications." Although the intent and scope have not changed, the change in wording between the proposed and final rule is intended to clarify that prompt notification is required once a shutdown is initiated.

In response to public comment, the term "immediate shutdown" that was used in the proposed rule is not used in the final rule. The term was vague and unfamiliar to those licensees who did not have Technical Specifications using the term.

This reporting requirement is intended to capture those events for which Technical Specifications require the initiation of reactor shutdown. This will provide the NRC with early warning of safety significant conditions serious enough to warrant shutdown of the plant.

Paragraph 50.72(b)(1)(ii), encompassing events previously classified as Unusual Events and some events captured by proposed §50.72(b)(1) was added to provide for consistent, coordinated reporting requirements between this rule and 10 CFR 50.73 which has a similar provision. Public comment suggested that there should be similarity of terminology, phrasing, and reporting thresholds between §50.72 and §50.73. The intent of this paragraph is to capture those events where the plant, including its principal safety barriers, was seriously degraded or in an unanalyzed condition. For example, small voids in systems designed to remove heat from the reactor core which have been previously shown through analysis not to be safety significant need not be reported. However, the accumulation of voids that could inhibit the ability to adequately remove heat from the reactor core, particularly under natural circulation conditions, would constitute an

unanalyzed condition and would be reportable. In addition, voiding in instrument lines that results in an erroneous indication causing the operator to misunderstand the true condition of the plant is also an unanalyzed condition and should be reported.

The Commission recognizes that the licensee may use engineering judgment and experience to determine whether an unanalyzed condition existed. It is not intended that this paragraph apply to minor variations in individual parameters, or to problems concerning single pieces of equipment. For example, at any time, one or more safety-related components may be out of service due to testing, maintenance, or a fault that has not yet been repaired. Any trivial single failure or minor error in performing surveillance tests could produce a situation in which two or more often unrelated, safety-grade components are out-of-service. Technically, this is an unanalyzed condition. However, these events should be reported only if they involve functionally related components or if they significantly compromise plant safety. When applying engineering judgement, and there is a doubt regarding whether to report or not, the Commission's policy is that licensees should make the report.

Finally, this paragraph also includes material (e.g., metallurgical or chemical) problems that cause abnormal degradation of the principal safety barriers (i.e., the fuel cladding, reactor coolant system pressure boundary, or the containment). Examples of this type of situation include:

(a) Fuel cladding failures in the reactor, or in the storage pool, that exceed expected values, or that are unique or widespread, or that are caused by unexpected factors, and would involve a release of significant quantities of fission products.

(b) Cracks and breaks in the piping or reactor vessel (steel or prestressed concrete) or major components in the primary coolant circuit that have safety relevance (steam generators, reactor coolant pumps, valves, etc.).

(c) Significant welding or material defects in the primary coolant system.

(d) Serious temperature or pressure transients.

(e) Loss of relief and/or safety valve functions during operation.

(f) Loss of containment function or integrity including:

(i) containment leakage rates exceeding the authorized limits

(ii) loss of containment isolation valve function during tests or operation,

(iii) loss of main steam isolation valve function during test or operation, or

(iv) loss of containment cooling capability.

Paragraph 50.72(b)(1)(iii), encompassing a portion of proposed 50.72(b)(2), was reworded to correspond to a similar provision of 10 CFR 50.73(a)(2)(iii). Making the requirements of 10 CFR 50.72 and 50.73 similar in language increases the clarity of these rules and minimizes confusion.

The paragraph has also been reworded to make it clear that it applies only to acts of nature (e.g., tornadoes) and external hazards (e.g., railroad tank car explosion). References to acts of sabotage have been removed, since these are covered by §73.71. In addition, threats to personnel from internal hazards (e.g., radioactivity releases) that hamper personnel in the performance of necessary duties are now covered by paragraph 50.72(b)(1)(vi). This paragraph covers those events involving an actual threat to the plant from an external

condition or natural phenomenon, and where the threat or damage challenges the ability of the plant to continue to operate in a safe manner (including the orderly shutdown and maintenance of shutdown conditions). The licensee should decide if a phenomenon or condition actually threatens the plant. For example, a minor brush fire in a remote area of the site that is quickly controlled by fire fighting personnel and, as a result, did not present a threat to the plant should not be reported. However, a major forest fire, large-scale flood, or major earthquake that presents a clear threat to the plant should be reported. As another example, an industrial or transportation accident which occurs near the site, creating a plant safety concern, should be reported.

Paragraph 50.72(b)(1)(iv), encompassing events previously classified as Unusual Events, requires the reporting of those events that result in either automatic or manual actuation of the ECCS or would have resulted in activation of the ECCS if some component had not failed or an operator action had not been taken.

For example, if a valid ECCS signal were generated by plant conditions, and the operator were to put all ECCS pumps in pull-to-lock, though no ECCS discharge occurred, the event would be reportable.

A "valid signal" refers to the actual plant conditions or parameters satisfying the requirements for ECCS initiation. Excluded from this reporting requirement would be those instances where instrument drift, spurious signals, human error, or other invalid signals caused actuation of the ECCS. However, such events may be reportable under other sections of the Commission's regulations based upon other details; in particular, paragraph 50.72(b)(2)(ii) requires a report within four hours if an Engineered Safety Feature (ESF) is actuated.

Experience with notifications made pursuant to §50.72 has shown that events involving ECCS discharge to the vessel are generally more serious than ESF actuations without discharge to the vessel. Based on this experience, the Commission has made this reporting criterion a "One-Hour Report."

Paragraph 50.72(b)(1)(v), encompassing events previously classified as Unusual Events, covers those events that would impair a licensee's ability to deal with an accident or emergency. Notifying the NRC of these events may permit the NRC to take some compensating measures and to more completely assess the consequences of such a loss should it occur during an accident or emergency.

Examples of events that this criterion is intended to cover are those in which any of the following are not available:

1. Safety parameter display system (SPDS).
2. Emergency Response Facilities (ERF's).
3. Emergency communications facilities and equipment including the Emergency Notification system (ENS).
4. Public prompt Notification System including sirens.
5. Plant monitors necessary for accident assessment.

Paragraph 50.72(b)(1)(vi), encompassing some portions of the proposed §§50.72(b)(2) and (6), has been revised to add the phrase, "including toxic gases or radioactive releases." This addition covers the "evacuation" portion of paragraph 50.72(b)(6)(iii) of the proposed rule. This change in wording for the final rule was made in response to public comments discussed above.

While paragraph 50.72(b)(1)(iii) of the final rule primarily captures acts of nature, paragraph 50.72(b)(1)(vi) captures other events, particularly acts by personnel. The Commission believes this arrangement of the reporting criteria

in the final rule lends itself to more precise interpretation and is consistent with those public comments that requested closer coordination between the reporting requirements in this rule and other portions of the Commission's regulations.

This provision requires reporting of events, particularly those caused by acts of personnel, which endanger the safety of the plant or interfere with personnel in performance of duties necessary for safe plant operations.

The licensee must exercise some judgment in reporting under this section. For example, a small fire on site that did not endanger any plant equipment and that did not and could not reasonably be expected to endanger the plant, is not reportable.

Paragraph 50.72(b)(1) of the proposed rule was split into §50.72(b)(1)(ii) and §50.72(b)(2)(i) in the final rule in order to permit some type of reports to be made within four hours instead of one hour because these reports have less safety significance. In terms of their combined effect, the overall intent and scope of these paragraphs have not changed from those in the proposed rule. Since the types of events intended to be captured by this reporting requirement are similar to §50.72(b)(1)(ii), except that the reactor is shut down, the reader should refer to the explanation of §50.72(b)(1)(ii) for more details on intent.

Paragraph 50.72(b)(2)

Although the reporting criteria contained in the subparagraphs of §50.72(b)(2) were in the proposed rule, in response to public comment the Commission established this "Non-Emergency" category for those events with slightly less urgency and less safety significance that may be reported within four hours instead of one hour.

The Commission wants to obtain such reports from personnel who were on shift at the time of the event, when this is possible, because these personnel will have a better knowledge of the circumstances associated with the event. Reports made within four hours of the event should make this possible while not imposing the more rigid more one hour requirements.

The reporting requirement in paragraph 50.72(b)(2)(i) is similar to a requirement in §50.73. Moreover, except for referring to a shutdown reactor, this reporting requirement is also similar to the "One-Hour Report" in §50.72(b)(1)(ii). However this paragraph applies to a reactor in shutdown condition. Events within this requirement have less urgency and can be reported within four hours as a "Non-Emergency."

Paragraph 50.72(b)(2)(ii) (proposed 50.72(b)(5)) is made a "Non-Emergency" in response to public comment, because the Commission agrees that the covered events generally have slightly less urgency and safety significance than those events included in the "One-Hour Reports."

The intent and scope of this reporting requirement have not changed from the proposed rule. This paragraph is intended to capture events during which an ESF actuates, either manually or automatically, or fails to actuate. ESFs are provided to mitigate the consequences of the event; therefore, (1) they should work properly when called upon and (2) they should not be challenged unnecessarily. The Commission is interested both in events where an ESF was needed to mitigate the consequences of the event (whether or not the equipment performed properly) and events where an ESF operated unnecessarily.

"Actuation" of multichannel ESF Actuation Systems is defined as actuation of enough channels to complete the minimum actuation logic. Therefore, single channel actuations, whether caused by failures or otherwise, are not reportable if they do not complete the minimum actuation logic.

Operation of an ESF as part of a planned test or operational evolution need not be reported. However, if during the test or evolution the ESF actuates in a way that is not part of the planned procedure, that actuation should be reported. For example, if the normal reactor shutdown procedure requires that the control rods be inserted by a manual reactor trip, the reactor trip need not be reported. However, if conditions develop during the shutdown that require an automatic reactor trip, such a reactor trip should be reported. The fact that the safety analysis assumes that an ESF will actuate automatically during an event does not eliminate the need to report that actuation. Actuations that need not be reported are those initiated for reasons other than to mitigate the consequences of an event (e.g., at the discretion of the licensee as part of a planned procedure).

Paragraph 50.72(b)(2)(iii) (proposed 50.72(b)(4)) has been revised and simplified.

The words "any instance of personal error, equipment failure, or discovery of design or procedural inadequacies" that appeared in the proposed rule have been replaced by the words "event or condition." This simplification in language is intended to clarify what was a confusing phrase to many of those who commented on the proposed rule. Also in response to public comment, this reporting requirement is a "Non-Emergency" to be reported within four hours instead of within one hour.

This paragraph is based on the assumption that safety-related systems and structures are intended to mitigate the consequences of an accident. While paragraph 50.72(b)(2)(ii) applies to actual demands for actuation of an ESF, paragraph 50.72(b)(2)(iii) covers an event where a safety system could have

failed to perform its intended function because of one or more personnel errors, including procedure violations; equipment failures; or design, analysis, fabrication, construction, or procedural deficiencies. The event should be reported regardless of the situation or condition that caused the structure or system to be unavailable.

This reporting requirement is similar to one contained in §50.73, thus reflecting public comment identifying the need for closer coordination of reporting requirements between §50.72 and §50.73.

This paragraph includes those safety systems designed to mitigate the consequences of an accident (e.g., containment isolation, emergency filtration). Hence, minor operational events such as valve packing leaks, which could be considered a lack of control of radioactive material, should not be reported under this paragraph. System leaks or other similar events may, however, be reportable under other paragraphs.

This paragraph does not include those cases where a system or component is removed from service as part of a planned evolution, in accordance with an approved procedure, and in accordance with the plant's Technical Specifications. For example, if the licensee removes part of a system from service to perform maintenance, and the Technical Specifications permit the resulting configuration, and the system or component is returned to service within the time limit specified in the Technical Specifications, the action need not be reported under this paragraph. However, if, while the component is out of service, the licensee identifies a condition that could have prevented the system from performing its intended function (e.g., the licensee finds a set of relays that is wired incorrectly), that condition must be reported.

It should be noted that there are a limited number of single-train systems that perform safety functions (e.g., the High Pressure Coolant Injection System in BWRs). For such systems, loss of the single train would prevent the fulfillment of the safety function of that system and, therefore, must be reported even though the plant Technical Specifications may allow such a condition to exist for a specified length of time. Also, if a potentially serious human error is made that could have prevented fulfillment of a safety function, but recovery factors resulted in the error being corrected, the error is still reportable.

The Commission recognizes that the application of this and other paragraphs of this section involves a technical judgment by licensees. In this case, a technical judgment must be made whether a failure or operator action that disabled one train of a safety system could have, but did not, affect a redundant train. If so, this would constitute an event that "could have prevented" the fulfillment of a safety function, and, accordingly, must be reported.

If a component fails by an apparently random mechanism, it may or may not be reportable if the functionally redundant component could fail by the same mechanism. To be reportable, it is necessary that the failure constitute a condition where there is reasonable doubt that the functionally redundant train or channel would remain operational until it completed its safety function or is repaired. For example, if a pump fails because of improper lubrication, there is a reasonable expectation that the functionally redundant pump, which was also improperly lubricated, would have also failed before it completed its safety function, then the failure is reportable and the potential failure of the functionally redundant pump must be reported.

Interaction between systems, particularly a safety system and a non-safety system, is also included in this criterion. For example, the Commission is increasingly concerned about the effect of a loss or degradation of what had been assumed to be nonessential inputs to safety systems. Therefore, this paragraph also includes those cases where a service (e.g., heating, ventilation, and cooling) or input (e.g., compressed air) which is necessary for reliable or long-term operation of a safety system is lost or degraded. Such loss or degradation is reportable, if the proper fulfillment of the safety function is not or can not be assured. Failures that affect inputs or services to systems that have no safety function need not be reported.

Finally, the Commission recognizes that the licensee have to decide when personnel actions could have prevented fulfillment of a safety function. For example, when an individual improperly operates or maintains a component, that person might conceivably have made the same error for all of the functionally redundant components (e.g., if an individual incorrectly calibrates one bistable amplifier in the Reactor Protection System, that person could conceivably incorrectly calibrate all bistable amplifiers). However, for an event to be reportable it is necessary that the actions actually affect or involve components in more than one train or channel of a safety system, and the result of the actions must be undersirable from the perspective of protecting the health and safety of the public. The components can be functionally redundant (e.g., two pumps in different trains) or not functionally redundant (e.g., the operator correctly stops a pump in Train "A" and, instead of shutting the pump discharge valve in Train "A," he mistakenly shuts the pump discharge valve in Train "B").

Paragraphs 50.72(b)(2)(iv) (proposed 50.72(b)(6)) has been changed to clarify the requirement to report releases of radioactive material. The paragraph is similar to §20.403 but places a lower threshold for reporting events at commercial power reactors. The lower threshold is based on the significance of the breakdown of the licensee's program necessary to have a release of this size, rather than on the significance of the impact of the actual release. The existing licensee radioactive material effluent release monitoring programs and their associated assessment capabilities are sufficient to satisfy the intent of 50.72(b)(2)(iv).

Based upon public comment and a reevaluation by the Commission staff, the reporting threshold has been changed from "25%" in the proposed rule to "2 times" in the final rule and has been reclassified as a "Non-Emergency" to be reported within four hours instead of within 1 hour.

Also this reporting requirement has been changed to make a more uniform requirement by referring to specific release criteria instead of referring only to Technical Specifications that may vary somewhat among facilities.

This reporting requirement is intended to capture those events that may lead to an accident situation where significant amounts of radioactive material could be released from the facility. Unplanned releases should occur infrequently; however, if they occur at the levels specified, at least moderate defects have occurred in the safety design or operational control established to avoid their occurrence and, therefore, such events should be reported.

Normal operating limits for radioactive effluent releases are based on the limits of 10 CFR Part 20 which establishes maximum annual average concentrations in unrestricted areas. This reporting requirement addresses concentrations averaged over a one hour period and represents about 0.1% of the annual quantities of radioactive materials permitted to be released by 10 CFR

Paragraph 50.72(b)(2)(v) (proposed rule 50.72(b)(7)) has three changes. The first eliminates the phrase "occurring onsite" because it is implied by the scope of the rule. The second replaces "injury involving radiation" with "radioactively contaminated person." This change was made because of the difficulty in defining injury due to radiation, and more importantly, because 10 CFR Part 20 captures events involving radiation exposure.

The third change, in response to public comment, was to make this reporting requirement a four-hour notification, instead of one-hour notification. This change was made because these events have slightly less safety significance than those required to be reported within one hour.

Paragraph 50.72(b)(2)(i)(vi) (not in proposed rule) besides covering some events such as release of radioactively contaminated tools or equipment to the public that may warrent NRC attention, also covers those events that would not otherwise warrant NRC attention except for the interest of the news media, other government agencies, or the public. In terms of its effect on licensees, this is not a new reporting requirement because the threshold for reporting injuries and radioactive releases was much lower under the proposed rule. This criterion will capture those events previously reported under other criteria when such events require the NRC to respond because of media or public attention.

Paragraph 50.72(c) (proposed 50.72(c)) has remained essentially unchanged from the proposed rule, except for addition of the title "Followup Notification" and some renumbering.

This paragraph is intended to provide the NRC with timely notification when an event becomes more serious or additional information or new analyses clarify an event.

This paragraph also permits the NRC to maintain a continuous communications channel because of the need for continuing follow-up information or because of telecommunications problems.

IV. REGULATORY ANALYSIS

The Commission has prepared a regulatory analysis on this regulation. The analysis examines the costs and benefits of the Rule as considered by the Commission. A copy of the regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. Single copies of the analysis may be obtained from Eric W. Weiss, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492-4973.

V. PAPERWORK REDUCTION ACT STATEMENT

The information requirements contained in the regulation have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act, Pub. L. 96-511 (clearance number 3150-0011).

VI. REGULATORY FLEXIBILITY CERTIFICATION

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605 (b), the Commission hereby certifies that this regulation will not have a

significant economic impact on a substantial number of small entities. This regulation affects electric utilities that are dominant in their respective service areas and that own and operate nuclear utilization facilities licensed under sections 103 and 104b. of the Atomic Energy Act of 1954, as amended. The amendments clarify and modify presently existing notification requirements. Accordingly, there is no new, significant economic impact on these licensees, nor do the affected licensees fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or within the Small Business Size Standards set forth in regulations issued by the Small Business Administration at 13 CFR Part 121.

VII. LIST OF SUBJECTS IN 10 CFR PART 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors. Penalty, Radiation Protection, Reactor siting criteria, Reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50 are published as a document subject to codification.

PART 50 - DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

AUTHORITY: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.58, 50.91 and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. A new paragraph (z) is added to §50.54 to read as follows:

§50.54 Conditions of licenses.

* * * * *

(z) Each licensee with a utilization facility licensed pursuant to sections 103 or 104b. of the Act shall immediately notify the NRC Operations Center of the occurrence of any event specified in §50.72 of this part.

3. Section 50.72 is revised to read as follows:

§50.72 Immediate notification requirements for operating nuclear power reactors.

(a) General Requirements.[1]

[1]Other requirements for immediate notification of the NRC by licensed operating nuclear power reactors are contained elsewhere in this chapter, in particular, §20.205, §20.403, §50.36, and §73.71.

(1) Each nuclear power reactor licensee licensed under §50.21(b) or §50.22 of this part 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) Of those non-Emergency events specified in paragraph (b) of this section.

(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) When making a report under paragraph(a)(3) of this section, the licensee shall identify:

(i) The Emergency Class declared; or

(ii) Either paragraph (b)(1), "One-Hour Report," or paragraph (b)(2), "Four-Hour Report," as the paragraph of this section requiring notification of the Non-Emergency Event.

(b) Non-Emergency Events.

---

[2]These Emergency Classes are addressed in NUREG-0654/FEMA-REP-1, entitled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" Rev. 1, November 1980. Copies of NUREG documents are available at the Commission's Public Document Room 1717 H Street, NW, Washington, D.C. 20555. Copies may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Publications Sales Manager

[3]Commercial telephone number of the NRC Operations Center is (202) 951-0550.

(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 of the following:

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

(ii) Any event or condition during operation that results in the condition of the nuclear power plant, including its principal safety barriers, being seriously degraded; or results in the nuclear power plant being:

(A) In an unanalyzed condition that significantly compromises plant safety;

(B) In a condition that is outside the design basis of the plant; or

(C) In a condition not covered by the plant's operating and emergency procedures.

(iii) Any natural phenomenon or other external condition that poses an actual threat to the safety of the nuclear power plant or significantly hampers site personnel in the performance of duties necessary for the safe operation of the plant.

(iv) 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.

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

(vi) Any event that threatens the safety of the nuclear power plant or significantly hampers site personnel in the performance of duties

necessary for the safe operation of the nuclear power plant including fires, and toxic gas, or radioactive releases.

(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) Any event, found while the reactor is shutdown, that, had it been found while the reactor was in operation, would have resulted in the nuclear power plant, including its principal safety barriers, being seriously degraded or being in an unanalyzed condition that significantly compromises plant safety.

(ii) Any event or condition that results in manual or automatic actuation of any Engineered Safety Feature (ESF), including the Reactor Protection System (RPS). However, actuation of an ESF, including the RPS, that results from and is part of the preplanned sequence during testing or reactor operation need not be reported.

(iii) Any event or condition that alone 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.

(iv) (A) Any airborne radioactive release that exceeds 2 times the applicable concentrations of the limits specified in Appendix B, Table II of Part 20 of this chapter in unrestricted areas, when averaged over a time period of one hour. (B) Any liquid effluent

release that exceeds 2 times the limiting combined Maximum Permissible Concentration (MPC) at the point of entry into the receiving water (i.e., unrestricted area) for all radionuclides except tritium and dissolved noble gases, when averaged over a time period of one hour. (Immediate notifications made under this paragraph also satisfy the requirements of paragraphs (a)(2) and (b)(2) of §20.403 of Part 20 of this chapter.)

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

(vi) 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.-

(c) Followup Notification. With respect to the telephone notifications made under paragraphs (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.

Dated at Washington, D.C., this day of ,198 .

For the Nuclear Regulatory Commission,

Samuel J. Chilk,
Secretary of the Commission.

ENCLOSURE 2

ANALYSIS OF COMMENTS

Twenty letters of comment were received in response to the Federal Register Notice (46 FR 61894) published on December 21, 1981*. This Federal Register Notice described the proposed revision of 10 CFR 50.72, "Notification of Significant Events," and 10 CFR 50.54, "Conditions of Licenses." A list of the commentors and a more detailed analysis of these comments is provided in the following pages. The number in parenthesis following each comment identifies the person making the comment in accordance with the list appearing on the next page.

---

* Copies of the Federal Register Notice as well as the letters of comment are available for public inspection and copying at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

LETTERS OF COMMENT

No.	Name	Affiliation
1	Marvin I. Lewis	-
2	George Keister	-
3	E. Erie Jones	Illinois Emergency Services and Disaster Agency
4	F. L. Clayton, Jr.	Alabama Power
5	Donald F. Knott	KMC, Inc. and Action Plan Utility Group
6	John R. Thorpe	GPU Nuclear
7	C.W. Fay	Wisconsin Power Elec. Company
8	Charles M. Pratt	Power Authority of the State of New York
9	J. A. Tiernan	Baltimore Gas and Electric
10	J. H. Moody	Yankee Electric Company
11	T. C. Nichols	South Carolina Electric and Gas Company
12	E. R. Mathews	Wisconsin Public Services Company
13	William D. Parker, Jr.	Duke Power Company
14	L. O. DelGeorge	Commonwealth Edison
15	N. M. Curtis	Pennsylvania Power & Light Company
16	J. T. Beckham	Georgia Power
17	John R. Marshall	Arkansas Power & Light Company
18	E. L. Zebroski	Institute of Nuclear Power Operations
19	W. G. Counsil	Northeast Utilities
20	Bart D. Withers	Portland General Electric

COMMENTS - GENERAL

The Staff should write a document to explain what is needed to meet the requirement of 50.72 (b) (1) and circulate for comment with this proposed rule or make it a part of this proposed rule (as appendix is a part of 10 CFR 50). (1)

Although the technical requirements of the proposed rule could be generally accepted as an evolutionary upgrade we view with concern the stated need for the upgrade. The statement of considerations reads:

> "Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation."

If this is the sole impetus to make another rule (50.54) in addition to 50.72 which is now adhered to by industry, we believe the Commission is embarking on a program which will ultimately yield questionable and probably negative results.

If the Commission believes that a failure to make a report will be used as the basis for revoking a license, the reporting event must be of a most serious nature and not characteristic of those listed in the proposed rule.

In summary, we believe that the Commission already has the ability to enforce its regulations (which could include license revocation for serious problems) and does not need to incorporate the items as now proposed into conditions of license. We believe the specific working of the desired reporting in Section 103 of the NRC Authorization Act for FY 1980 (PL 96-295) could be made part of 50.72 without the need for the "legal over-kill" of the proposed regulation. (5)

We recommend that the proposed 10 CFR 50.72 be withdrawn. It is our belief that these new provisions go beyond congressional intent. (10)

The new Subsection states in part, ". . . in case of any accident that could result in an unplanned release of quantities of fission products . . .". It would be more appropriate to substitute results for could result in the above sentence since there are a variety of anticipated transients or accidents considered in the FSAR that eventually "could result" in an unplanned release of quantities of fission products considering the worst of an infinite set of variables. (17)

Federal Register page 61894, Column 2, paragraph 3:

> It is not clear whether or not Section 103 of the Atomic Energy Act of 1954 is being amended by this rule change or if it already has been amended by some other mechanism. (17)

Finally, it has always been the case that the NRC Commissioners can revoke an operating license; however, Subsection (f) threatens license revocation for non-compliance to vague, undefined and interpretable terms such as "immediately" and "could result". Such wording is not in the best interests of AP&L or the nuclear industry. (17)

RESPONSE

With regard to the comment suggesting that NRC write additional documents to explain what is meant by the rule, the NRC staff is preparing a Federal Register Notice that will clarify some points. The staff intends that the rule be as clear as possible. Additional guidance in the form of NUREG reports or regulatory guides may be prepared if necessary. The NRC staff is prepared to help licensees with any problems of interpretation on a case-by-case basis.

With regard to the comment that if the quoted language is the sole impetus then the Commission is enlarging on a program with negative results, the NRC staff is primarily motivated to modify the regulations to improve reporting in order to protect the public health and safety. The quoted language regarding the possibility of license revocation is part of Congressionally charted legislation reaffirming Congress' intent that the NRC shall have sufficient power to enforce the important function of receiving safety significant information. The NRC desires to make reporting of information meaningful, timely and efficient. The NRC sees the revision of regulations described here as substantial progress toward the goal of protecting public health and safety.

One comment (17) suggested revision of the legislation and clearly did not understand that this rule does not amend legislation. The NRC is promulgating an amendment of §50.54 to satisfy the intent of Congress.

COMMENT - PROPOSED RULE WAS IMPROVEMENT, BUT

I applaud your proposal to revise reporting requirements for nuclear power plant operators. (2)

The proposed revision is generally a commendable step in better defining reporting requirements. There are, however, some items in the proposal that are of concern to us: (4)

In addition, we are encouraged by the Commission's recognition that the existing Section 50.72 is vague, too broad in scope, and ambiguous. Generally, we view the proposed changes to Section 50.72 as an improvement to the existing requirements but we offer the following specific comments directed at further improvements: (6)

We welcome this effort by the NRC to clarify these reporting requirements. (7)

Although the proposed rule has substantially improved the specificity of the reporting requirements, we wish to make further comments . . . . (7)

The proposed notification requirements are a significant improvement over previous requirements, however, deficiencies still exist in the list of significant events to be reported in 10 CFR 50.72. (19)

RESPONSE

We are pleased that our intent to clarify and coordinate 10 CFR 50.72 reporting requirements with other rules and NRC guidance is recognized as an improvement.

COMMENT - TOO MUCH REPORTING CAUSES UNNECESSARY PUBLIC CONCERN

Further, as expressed in our comment letter to you dated June 4, we remain concerned about the Commission's use of information supplied by means of these prompt notifications. The Commission apparently has proposed no criteria, guidelines, limitations, or requirements for screening, disclosing, or acting upon the information received from licensees in these telephone calls. The NRC regional offices have already developed the practice of releasing throughout the NRC and sending to state officials "Preliminary Notifications" regarding events at licensed facilities without consulting the licensee. Unbridled dissemination of preliminary information received through the prompt notification system could create premature or unreasonable reactions based on a misunderstanding of an otherwise trivial event. As we have suggested previously, criteria for NRC use and disclosure of this type information should include technical agreement between the NRC and the licensee as to the facts of the event and what has occurred. (7)

Our difficulties with the interpretation of the existing listing in 10 CFR 50.72 have been the subject of several letters including our comments to you dated June 4, 1980 and our letter to Mr. H. R. Denton dated December 8, 1980; additional correspondence has been exchanged with Region III on this subject. In considering these comments, it should be noted that we inform the media of any event requiring immediate reporting to the NRC as part of our effort to keep the public informed regarding the operation of Point Beach Nuclear Plant. Honoring such commitments results in unnecessary public concern where NRC reporting requirements involve.truly insignificant events so far as public safety is concerned. (7)

As discussed in our meeting of February 9, 1982, there is also a basic issue which is left indeterminate. The regulations and industry practice since 1979, assure that even minor events, posing no threat to the public, are promptly reported. There is no comparable effort, regulation, or articulated policy aimed at minimizing false alarms, or undue exaggeration of minor events. There is no penalty - or even disincentive against such exaggeration. Indeed, the present approach appears to bias the system towards false alarms or the reporting of minor events in a mode which commonly results in reinforcing unwarranted public apprehensions. The posture that this unwarranted public apprehension results only from media exaggeration is not readily defensible. For example, the immediate reporting system is structured to operate in haste to announce minor events. The use of the emergency channels for dissemination of such minor events often seems designed to imply imminent catastrophe.

This pattern unavoidably has the result of arousing and reinforcing public apprehension. The NRC should consider whether policies which avoid producing such results, even if inadvertent, are in the interests of NRC, the NRC staff, or the public. (18)

RESPONSE

The NRC agrees with the general thrust of these comments that activating an Emergency Plan too frequently and unnecessarily generates unwarranted concern. The need for reducing the number of activations of Emergency Plans has come to the attention of the NRC as a result of public comment on the proposed rule. The NRC cannot amend those portions of the regulations defining the Emergency Classes, Appendix E of Part 50 and 50.47, without first issuing another proposed rule and giving the public an opportunity to comment on specific changes.

The subject of this final rulemaking, §50.54 and §50.72 are being amended in such a way as to permit reduced number of activations of the licensee's Emergency Plans without further modification, once Appendix E to Part 50 and §50.47 are amended. Ultimately, it is the Commission's intent to amend Appendix E to Part 50 and §50.47 to eliminate "Unusual Event" as an Emergency Class, thus raising the threshold for activation of the licensee's Emergency Plan.

With regard to release of Preliminary Notifications (PN's), PN's are not the subject of this rulemaking. This is a separate issue.

Likewise, releases of any information to the public is not an issue to be addressed in this rulemaking. The primary purpose of this rulemaking is to ensure that the NRC has the information so that it can protect the public health and safety. Nothing in this rulemaking will either enhance or detract from release of information to the media or public.

COMMENT - PLANT OPERATING AND EMERGENCY PROCEDURES

The same lack of specifics apply to the actual "events to be reported." Paragraph 50.72 (1) "not governed by the plants operating and emergency procedures." That comes out of 50.72 (b)(1). Does this refer to Tech Specs, or what? Each plant has its own set of operating procedures. They vary greatly, are difficult to read, and are written by the licensee to favor his point of view. Using the procedures written by the licensee is not necessarily the best way to protect the health and safety of the public or get the best information as quickly as possible. (1)

Section 50.72(b)(1):

We find this item to be still too vague to eliminate unnecessary reporting. There are many times that conditions are encountered that are not explicitly governed by plant operating and emergency procedures but are of an insignificant nature. We do not want our operators spending a lot of time during a transient trying to decide whether a plant condition not

covered by OPs or EPs must be reported within one hour. Further clarification of the Commission's intent with respect to this requirement needs to be provided in the rule. (6)

A requirement for immediate notification of an event to the NRC and/or local authorities implies that the event being reported has, or could have immediate significance with respect to the health and safety of the plant, personnel, or general public. As the proposed rule is currently phrased, Criterion (1) provides for the reporting of any event that results in the nuclear power plant being in a condition not governed by operating or emergency procedures.

This may include events which do not present an immediate concern. This requirement should be revised to include only those events which have nuclear safety significance. The following wording for Criterion (1) is suggested:

Any event having nuclear safety significance that results in the nuclear power plant being in a condition not governed by the plant's operating or emergency procedures. (13)

In paragraph (b)(1) of the revised Section 50.72 the requirement for immediate notification of a deviation from plant operating procedures should be deleted, while retaining the notification requirement for emergency procedures. The reason for this deletion is that many vacancies from operating procedures do not affect plant safety. This proposed requirement would necessitate constant and strict review of all plant procedures no matter how minor their significance and would require frequent immediate notification of these events. This would tend to dilute the impact of the emergency notification since frequent reporting of rather insignificant events would probably take place. The net result would more than likely be an unnecessary increase in the demands on both the plant operations personnel and the NRC Operations Center staff in handling these reports. A reporting time limit of 24 hours for operations procedures violations would probably be more practical and would allow for more details to be reported. (16)

This event category requires notification whenever the plant is in a condition not governed by the plant's operating or emergency procedures. As written, this could be interpreted to include conditions such as plant tests which may involve operation of equipment in manners not prescribed in the operating or emergency plant procedures. Since these events would be of no consequence or concern, additional specificity is required as to the kinds of events requiring immediate notification. (20)

RESPONSE

The NRC believes that the operating staffs of nuclear power plants should be familiar with plant operating and emergency procedures. However, the wording of the reporting criteria in the final rule (10 CFR 50.72 (b)(1)(i)(B)) has been modified to narrow the events captioned to those that significantly compromise plant safety. Notwithstanding the fact the procedures do vary from plant to plant, this is a useful reporting criterion. When a plant is

being operated in a manner not consistent with approved procedures it tends to be indicative of a more serious problem.

By way of clarification, the NRC does not intend that approved plant testing should be interpreted as requiring a report under this criterion.

COMMENT - EXPLICIT THREATS

More deficiencies in the 8 events that require Notification 50.72(b)(2) "explicitly threatens the safety". What is the nature and severity of the threat referred to here? Does this refer to a branch being blown off a tree by the wind and hitting a worker on the way into the plant? Or conversely unless the severity of the threat is so great that it obviously threatens life and limb immediately such as a spill of special nuclear material when people are near the spilled material? Some indication of the nature and severity of the threat which requires reporting must be included in the rule. (1)

The proposed rule should clarify whether or not the words "explicitly threaten" have the equivalent meaning to the definition of "explicit threat" presented in the footnote to 10 CFR Section 73.71. (7)

This category includes acts of natural events or personnel acts that explicitly threaten the safety of the nuclear power plant or site personnel in the performance of duties necessary for the safe operation of the nuclear plant or the security of special nuclear material. Acts of nature that threaten the safety of the plant or plant personnel are covered in the Emergency Initiating Conditions in NUREG-0654, Appendix 1, and are, therefore, included in Section 50.72 (a) which requires notification upon activation of the emergency plan. Since this category is redundant its deletion is recommended. If it is determined that this category is separately required, the term "explicitly threaten the safety" needs to be defined so as to make this category more specific. (20)

RESPONSE

The term "explicitly threatens" that appeared in the proposed rule has been deleted from the final rule.

COMMENT - STRIKES OF OPERATING PERSONNEL

50.72(b)(2) reads "Any act of nature, event, or personnel act that explicitly threatens the safety of the nuclear power plant or site personnel in the performance of duties necessary for the safe operation of the nuclear plant or the security of special nuclear material, including strikes of operating personnel . . ." (emphasis added). This wording implies that strikes by operating personnel provide a de facto threat to nuclear plant or special nuclear material safety. We do not object to providing notice of strikes by operating personnel. However, strikes by operating personnel should be striken from 50.72(b)(2) and made a separate entry under 50.72(b) to avoid the unfounded

implication that strikes automatically pose an explicit threat to nuclear safety. (4)

Included in the reporting category of paragraph 50.72(b)(2) are "strikes of operating personnel". A job action or strike by operating personnel does not, by itself, constitute a threat to the safety of a nuclear power plant. Reference to strikes should be removed from this paragraph or qualified to require such reports only if plant staffing is reduced below Technical Specification requirements. (7)

RESPONSE

The Commission has deleted reference to strikes from the reporting criteria. Other criteria are used to obtain reports regarding events that threaten the safety of the nuclear power plant or significantly hamper site personnel.

COMMENT - IMMEDIATE SHUTDOWN

If a plant is shut down, how can you say that it is due to a Tech Spec requirement or because the plant was going down for some other reason? This should be written: (3) Any event for which plant Tech Specs require initiation of immediate shutdown of the nuclear power plant no matter whether the plant was shut down for that reason or some other reason." (1)

50.72(b)(3) reads "Any event for which plant Technical Specifications require initiation of immediate shutdown of the nuclear power plant." Standard Technical Specifications do not use the term "immediate" in action statements requiring shutdown but rather "within one hour", etc. Thus, this requirement is unclear. Revising 50.72(b)(3) to read "Shutdown of the nuclear power plant required by Technical Specifications" would correct this problem and prevent any misunderstanding that notification must be made of operation in a degraded mode allowed by technical specifications prior to shutdown. (4)

Section 50.72(b)(3):

There are very few events for which plant technical specifications require an immediate shutdown. If it is the Commission's intent to have only these reported, the requirement is correctly stated. However, if this will be later interpreted to include shutdowns required within 15 minutes, or one hour, or some other short time frame, an explicit quantitative time frame should be specified in the regulation now. (6)

Section 50.72(b)(3) - Reports would not be required under this proposed provision since the Technical Specifications are written to allow an opportunity to correct a problem prior to shutdown. More appropriate wording would be "any event for which plant technical specifications require immediate initiation of nuclear power plant shutdown". This wording would allow for the grace period provided by the technical specifications and comply with the intent of this proposed provision. We now report any initiation of a plant

shutdown required by the Technical Specifications. Another alternative is to leave the rule as it now stands, without the word "immediate." (9)

RESPONSE

Since not all plants have technical specifications that use the term "immediate shutdown," the term was confusing to some commentors. The NRC has revised the reporting criterion in question so that the final rule requires a report upon the initiation of a shutdown required by Technical Specification.

COMMENT - INSTANCES OF PERSONAL ERROR, EQUIPMENT FAILURE OR DISCOVERY OF DESIGN OR PROCEDURAL INADEQUACY

(4) change "alone" to "alone or in combination with likely events, procedures or Wash 1400 fault trees." (1)

Item (iii) of paragraph 50.72(b)(4) should be deleted. Instances of personnel error, equipment failure, or discovery of design or procedural inadequacies that prevent fulfillment of the safety function for the control or release of radioactive material would be immediately reportable under paragraph 50.72(b)(6) should such a release occur. Leaving this item in paragraph 50.72(b)(4) invites the same interpretation difficulties existing presently with 10 CFR 50.72 regarding radioactive releases. (7)

Criterion (4) should be eliminated as an immediate notification item. Occurrences in this category which are not covered by Criterion (3) would not pose any continued threat to the plant or personnel. Clearly, the discovery of a failure, design flaw, or procedural inadequacy, which may have existed for some amount of time undetected, does not warrant an immediate notification. If actions are required to change the status of the plant as the result of such discoveries, the situation would be addressed by other criteria. (13)

50.72(b)(4) - Proposed paragraph 50.72(b) requires that the NRC be notified "... as soon as possible and in all cases within one hour of the occurrence of any of the following events ...". Proposed paragraph 50.72(b)(4) states, "Any instance of personnel error, ..., or discovery of design or procedural inadequacies that alone could prevent the fulfillment of the safety function...". These are events which could occur and subsequently be discovered. As such, these events may represent a circumstance where meeting the specified reporting requirements would be impossible. When does the one hour reportability clock start running in the case of design or procedural inadequacies? How does the one hour reporting time frame relate to the civil penalties proposed by the 45FR66754 Proposed General Statement of Policy and Procedure for Enforcement Actions for cases of design or procedural inadequacies? (15)

In paragraph (b)(4) of revised Section 50.72 the allowance for reporting "on discovery" should be extended to personnel error and equipment failure reporting. In many cases a personnel error on an equipment failure is not readily apparent and may go undiscovered for some time. This should be taken into account in reporting time limits. (16)

(b)(4)(iii) "Any instance of personnel error, ... to control the release of radioactive material."

Although the NRC has changed the wording from limit to control, the requirement still remains too vague. Some reference to a limitation, i.e., a curie limit, coolant activity level, etc., should be incorporated into this requirement. (19)

RESPONSE

The intent of this criterion is to have timely reporting of any event that could prevent fulfillment of a safety function. The operability of safety systems is well defined by technical specification and other plant performance documents. The clock for reporting begins when the licensee has discovered or becomes aware of such an event.

The NRC does not agree that this criterion should be eliminated. It is, however, incorporated in the "four-hour notification" instead of the "one-hour notification." Other criteria will not necessarily capture these important events.

The NRC chose not to adopt the suggested language of commentor 1 believing such language would not substantially clarify the intent or meaning of this criterion.

The NRC chose not to specify specific limits (i.e. curie limit, coolant activity) because regardless of such limits, if a safety function can not be fulfilled it should be reported.

COMMENT - ESF/RPS ACTUATION

Section 50.72(b)(5):

This requirement would appear to require one-hour notification for any reactor trip, even those which occur due to instrument drift or personnel error, even though no Technical Specification limits were exceeded. In our judgment this is too broad and is not necessary to implement Section 201 of the Authorization Act. (6)

Proposed paragraph 50.72(b)(5) is an improvement over previous guidance but still would require reporting of such "non-events" as a reactor trip from below the level of power operation as defined in Technical Specifications. Such trips, particularly where the cause of the trip is understood and evaluated as having no safety significance, offer no hazard to the reactor or to the public. It is, therefore, recommended that this requirement be modified to read "(5) Any event resulting in manual or automatic actuation of Engineered Safety Features (ESF). This includes events actuating the Reactor Protection System (RPS) which occur during power operations ...". (7)

10 CFR 50.72(b)(5)

There is a significant distinction between actuation of the Engineering Safety Features and the Reactor Protection System. Normal functioning of the Reactor Protection System, in the manner it was designed, does not logically fall under any of the four defined emergency classes. Notification to NRC within one hour of RPS actuations is an unnecessary burden on Licensees and provides information of questionable value to the NRC. For the above reasons, this requirement should be deleted. (17)

10 CFR 50.72, Paragraph (5), "Reporting ESF and RPS"

INPO recommends elimination of the requirement to report this information in the proposed Rule and recommends that the data called for be accumulated during the NRC's daily plant status telephone check. (18)

(b)(5) "Any event resulting in manual or automatic actuation of Engineered Safety Features ... (... testing or normal reactor shutdown need not be reported)."

We do not agree all Reactor Protection System or Engineering Safety Features actuation (except during normal reactor shutdown or during surveillance testing) needs reporting. A spurious trip has no effect on the health and safety of the public and no obvious benefits for reporting. We recommend that spurious trips need not be reported. (19)

RESPONSE

In response to these comments, the NRC staff has changed the reporting deadline to 4-hours instead of one hour. However, the NRC does not regard reactor scrams as "non-events" as do some commentators. Information related to reactor scrams has been extremely useful to the NRC in identifying incipient safety related problems. Even a pattern of repeated scrams is indicative of a safety problem in itself because of frequent challenges to safety systems.

COMMENT - BUILDING EVACUATION

50.72(b)(6)(iii) reads "Any accidental, unplanned or uncontrolled radioactive release that results in evacuation of a building." The placement of this requirement relative to 50.72(b)(6)(i) and 50.72(b)(6)(ii) makes it unclear whether it applies to all facilities or only those that do not have instantaneous release rate technical specifications. If applicable to all facilities, it should be numbered 50.72(b)(6)(i). Additionally, we are concerned that the requirement as written may be counterproductive by causing personnel responsible for initiating building evacuations to be reluctant to order precautionary evacuations. To preclude such an undesired effect, we recommend that the requirement be limited to ". . . evactuation of a building due to airborne concentration in excess of . . ." some number of maximum permissible concentrations (MPCs) . . . specified in 10 CFR 20, Appendix B, Table I." This wording would delay notification until air samples determined

the need for notification, but it would have the positive effect of limiting notification to those instances where evacuations were truly necessary and not just precautionary. (4)

In addition, extending the requirement to include cases "that result in the evacuation of a building" is much too broad. Evacuation of a building may not be indicative of an excessive release, but rather a cautious, conservative approach to an off-normal condition. We recommend recasting this requirement with these considerations in mind. (6)

Section 50.72 paragraph (b) subpararaph (6)(iii) requires reporting of "any accidental, unplanned or uncontrolled radioactive release that results in the evacuation of a building".

This subparagraph should be revised to read:

"Any accidental, unplanned or uncontrolled radioactive release that results in the evacuation of a building and could potentially result in a radioactive release offsite that exceeds the limits proscribed in subparagraph (ii).

Since reporting requirements of subparagraph (b)(2) relate to site personnel safety and subparagraph (b)(6)(ii) relate to offsite population safety, subparagraph (b)(6)(iii), if it serves any purpose other than redundancy, must exist as an early warning mechanism for offsite releases posing a threat to safety. The reporting of releases which do not pose a threat to safety either onsite or offsite merely because a building is evacuated is unnecessary and counterproductive to the purposes of the rule. For instance, during plant outages localized short term releases of radioactivity may occur in the reactor containment building thus triggering a detector alarm. Standard practice dictates that even where no offsite threat exists, personnel in the vicinity of the detector or the building be evacuated. (8)

Section 50.72(b)(6)(iii) - Define "building" and add "complete" before the word "evacuation" was necessary. If a building is partially evacuated to comply with ALARA concepts, it should not be reportable. Deletion of the entire section 50.72(b)(6)(iii) would also satisfy our concern and remove any ambiguity which could lead to inconsistent reporting among various plants. (9)

It is considered that the requirements contained in Criteria (6)(i) and (ii) provide for necessary reporting of significant releases, and therefore, (6)(iii) should be deleted, or at least modified significantly. For example, the evacuation of a building is usually done on potential rather than confirmed radiological hazards. Events should not be reported only because a building was evacuated without considering the significance of the release. Indeed, making a release reportable if an evacuation occurs could result in less conservative attitudes with respect to precautionary evacuations. Also, the proposed rule is unclear as to whether a partial evacuation of a building is reportable. An evacuation of only a portion of a building should not be reportable. And finally, many operational, maintenance and testing activities have the potential for a small "release." These would be unplanned but not necessarily unexpected and should not be reported. (13)

We have one specific comment regarding the new paragraph 50.72(b)(6)(iii). As proposed, it will generate a considerable number of unnecessary red phone calls. It should be clarified to indicate a release exceeding the limits such as:

> "(iii) Any accidental, unplanned, or uncontrolled radioactive release to a building that exceeds ten times the applicable limits of 10 CFR Part 20, Appendix B, Table I for greater than one hour and that results in the evacuation of the building." (14)

In paragraph (b)(6)(iii) there is a requirement for NRC notification (within one hour via Emergency Notification System) of "any accidental, unplanned, or uncontrolled radioactive release which results in the evacuation of a building" (10 CFR 50.72(b)(6)(iii)). Building evacuations are, at times, initiated when ventilation gas, particulate, or iodine monitors alarm. Alarm setpoints are normally well below levels which could dictate (based on MPC -hours for example) evacuation. In addition, alarms based on equipment malfunctions or temporary activities, such as transporting a drum of radioactive waste past a monitor, may also be expected. Thus, building evacuations may result from minor events which should be not reportable.

We would recommend changing this section to read: "any accidental, unplanned, or uncontrolled radioactive release which requires evacuation of a building." With this wording, releases would not be reportable until they were of a magnitude to require evacuation (i.e., concentrations in excess of 10 CFR 20 Appendix B, Table 1 Column 1 values). (16)

This paragraph appears to be overly restrictive and is somewhat unclear. For example, it is not clear whether an evacuation of a building means any portion of a building such as a single room or all of it. If the release is to a local plant area and is contained and controlled in accordance with plant procedures and technical specifications, or if the evacuation is strictly precautionary pending situational assessment, again it is not clear that this be reported via ENS. One example would be the accidental spillage of contaminated water in a room. If an area is designed to accomodate a release and process it properly even though the area must initially be evacuated, this should not have to be reported via ENS. Perhaps one of the keys to implementing this paragraph lies in the definition of "release". If the material is contained and controlled, it should not be considered released. If there is a specified quantity of released material contemplated, this should be defined. For ALARA considerations, even a very minor release may be cause to evacuate an area, but not infringe on standard radiation protection limits.

The term "building" should be clarified to mean those areas not designed to accomodate and properly process a release in accordance with plant design and procedure. The paragraph should specify the quantity of released material contemplated as was done in paragraphs (6)(i) and (6)(ii). (17)

Paragraph 6(iii), "Requirement for Evacuation of a Building"

This paragraph of the proposed Rule is inconsistent with a similar section of the proposed LER Rule, 50.73. Resolution of the conflict is required. Our previous comments on 10 CFR 50.73 should be considered as your resolve this apparent inconsistency. (18)

(b)(6)(iii) "Any accidental, unplanned, or uncontrolled ... that results in the evacuation of a building."

In many cases, a building is evacuated as a precautionary measure when airborne activity is detected and the immediate extent is not known. This requirement should be further defined to require reporting only in those cases which would result in personnel reaching a radiological limit, i.e., Maximum Permissible Concentration, if an evacuation was not conducted. (19)

4 [50.72(b)(6)(iii)] - This event category includes any accidental, unplanned or uncontrolled radioactive release that results in the evacuation of a building. This category should be made more specific, requiring the complete evacuation of all personnel from an entire plant building. Evacuations of portions of buildings and evacuations of unnecessary personnel from areas of plant buildings occur fairly frequently at operating plants and most times are of no safety concern. The majority of these evacuations are of a precautionary nature and are generally due to airborne radioactivity levels due to minor spills or leaks. (20)

RESPONSE

Based on these comments, the NRC has eliminated reference to building evacuation and instead rely on specific radiological release criteria.

COMMENT - RADIOACTIVE RELEASE

Define "instantaneous." Explain how this used in non-continuous reading meters, cumulative meters, other plant meters. Can the licensee, post facto, say that any particular release was planned? If a licensee can say a release is planned, this rule is useless. All a licensee has to say about a release is that it was planned or controlled whether it was or not. This rule must stipulate that all releases must be considered unplanned and uncontrolled unless announced 1 hour before the release to the NRC that a release is planned and how much that release will be. (1)

Section 50.72(b)(6):

This requirement is also overly conservative from the standpoint of Section 201 of the Authorization Act which requires notification in case of releases in excess of allowable limits. This requirement further reduces this threshold to 25 percent of allowable limits. (6)

Section 50.72(b)(6)(i) and (ii) - As long as the release is less than technical specification limits, no immediate reports should be required unless the situation is deteriorating. Certainly, if some warning indication is needed, it should be closer to 100% of Technical Specification limits or 100% of 10 CFR Part 10, Appendix B, Table II limits instead of 25%. (9)

Section 50.72(b)(6)(i) and (ii) - Unless technical justification exists, only one of the two (i) or (ii) reporting requirements should be used. Thus,

any bias for some plants reporting more or less often than others would be eliminated. (9)

Paragraph 6 (i)(ii)," Radioactive Release Rate"

INPO recommends elimination of this requirement since releases below technical specifications reporting requirements should fall into the Public Interest Notifications category (Six Hour Rule). (18)

(b)(6)(i) and (ii) "... Any accidental, unplanned, or uncontrolled radioactive release offsite that exceeds ... 25% of the Technical Specification limits (or 10 CFR Part 20, Appendix B, Table II)." The incorporation of a specific threshold value represents a significant improvement, however, there is still no guidance as to what constitutes an "accidental, unplanned, or uncontrolled" radioactive release as opposed to a normal or expected release. The problems associated with this lack of guidance were presented in Reference (2), which is attached for your convenience. As indicated in Reference (2), the imposition of a one hour reporting requirement for this particular item would result in a number of unnecessary reports. NUSCO does not feel that one hour is always an adequate amount of time to determine whether or not an actual release has occurred, and whether the release was due to an "unplanned" or "expected" event. Rather, we suggest a time requirement of "promptly, but in no case more than 3 hours" which we feel would prevent unnecessary reports, yet still comply with the intent of 10 CFR 50.72. Releases that are significant public health and safety concerns are reported immediately per 10 CFR 50.72(a). (19)

Reference (1) states that the reporting threshold of 25% of the applicable Technical Specifications was based on "... engineering judgment and experience as to what percentage level was appropriate to adequately protect the public health and safety." The basis for 10 CFR 20 Appendix B, Table II was that no public health and safety consequence would be recognized if individuals offsite were exposed to these specified concentrations continuously for an entire year. It is, therefore, contradictory to state that releases of 25% of these limits for a very small fraction of the year should be reported immediately to adequately protect the public health and safety. NUSCO suggests that the threshold limit be revised to the actual Technical Specification (or 10 CFR Part 20, Appendix B) limits. This would still be conservative in regard to public health and safety, but would be consistent with other reporting criteria. (19)

[50.72(b)(6)(i) AND (ii)]

This event category includes an accidental, unplanned or uncontrolled release that exceeds 25 percent of Technical Specification limits, or 25 percent of the applicable offsite concentrations of 10 CFR 20, Appendix B, Table II. There is no basis either in the regulations or in the literature for a release of 25 percent of the Technical Specifications Limits (or 10 CFR 20, Appendix B, Table II concentrations) being a potential threat to the public health and safety.

This reporting requirement also conflicts with NUREG-0654 Unusual Event Initiating Event Number 2, which requires notification of the NRC [under Section 50.72(a)] if radiological effluent technical specification limits are exceeded. In addition, 10 CFR 20.403 currently requires immediate notification of the NRC if radioactive material is released in concentrations which, if averaged over 24 hours, would exceed 5000 times the 10 CFR 20 Appendix B, Table II limits, 24 hour notification if the Table II limits are exceeded by a factor of 500 and only a 30 day report if the Table II limits are exceeded by a factor of 10. As a result, between 10 CFR 50.72 and 10 CFR 20.403 there are five separate reporting requirements, three of which are required immediately with three different release limits.

To be consistent with the intent of this rule, it is recommended that reporting be required at 100 percent of the Technical Specification release limit (or 10 CFR 20, Appendix B, Table II). Since exceeding Technical Specification release limits is a NUREG-0654, Appendix I Unusual Event Initiating Condition, this category would then be included in Section 50.72(a) and, therefore, could be deleted from Section 50.72(b). In addition, the reporting requirements of 10 CFR 20.403 should be revised to be consistent with 10 CFR 50.72. (20)

RESPONSE

Based upon the above comments, the NRC has changed the threshold of reporting to two times allowable limits. This higher reporting threshold should reduce unnecessary reporting.

The NRC chose to adopt the suggestion of comment 9 and use only one of the two (i) or (ii) reporting requirements (now 50.72(b)(2)(i)(D).

The NRC adopted the suggestion that this type of report be included in the larger reporting time frame (i.e., 4-hours notification instead of 1 hour).

Based upon the comments received, the words "accidental, unplanned, or uncontrolled" have been deleted for the sake of clarity.

COMMENT - EMERGENCY CLASSES

10 CFR 50.72(c)(1)

It is not evident what purpose is served by requiring the Licensee to "guess" and promptly report via ENS whether or not an Emergency Class may be initiated or changed to another Class level. The paragraph should be rewritten as follows: "Promptly report any further degradation in the level of safety of the plant or other worsening plant conditions which requires initiation of any of the four Emergency Classes . . .". (17)

RESPONSE

The NRC does not believe that a licensee should have to guess what Emergency Class is appropriate. The licensee is responsible for classifying any emergency. He does this in accordance with approved criteria in order to communicate the relative seriousness of the emergency. Prompt reporting of any degradation is necessary in order for the NRC to know when an emergency becomes worse.

COMMENT - CITING 50.72 AS BASIS FOR NOTIFICATION

1. Section 50.72 paragraphs (a) and (b) require that when the NRC is notified of a significant event that the licensee indicate that such notification is made pursuant to this section. The following words should be deleted from paragraphs (a) and (b): "and shall identify that the notice is being made under this paragraph".

While such a requirement seems innocuous, it does introduce minor and unnecessary burdens into the notification process and raises questions which the NRC should answer. It would seem that the intent is to alert the NRC as to the section of the regulations that govern requirements for notification, however, it has no impact on the actual response to the situation. In fact, the operator in addition to reacting to the significant event and supplying technical information to the NRC now has the additional burden of supplying legal citations. Any requirement which distracts the operator from responding to the significant event should be carefully scrutinized.

If this requirement is imposed, the NRC should answer the following questions:

(a) What is the purpose of this requirement?

(b) If a legal citation is not given, what practical effect will that have on NRC's response to a significant event?

(c) If a legal citation is not given, what is the legal effect?

(d) If a significant event report is identified as made under this paragraph, does that preclude it from satisfying the reporting requirements of other sections of Part 10?

While the Power Authority certainly has no objection to identification of legal citations in written reports, in cases where time may be of the essence, requiring citation to the Code of Federal Regulations seems inconsistent with the purposes of the regulation. (8)

- The proposed rule requires that the notification of an emergency event "shall identify that the notice is being made under this paragraph (50.72)." This is an unnecessary statement from the standpoint of satisfying the goal of immediate notification and failure to make this statement would leave the licensee subject to fine. (15)

RESPONSE

The NRC does not believe that it is an unnecessary burden for a licensee to know and identify the basis for a telephone notification required by 10 CFR 50:72. There has been many occasions when the licensee could not tell the NRC whether the telephone notification was being made in accordance with technical specifications, 10 CFR 50.72, some other requirement, or just a courtesy call. Unless the licensee can identify the nature of the report, it is difficult for the NRC to know what significance the licensee attaches to the report and it becomes more difficult for the NRC to quickly and properly respond to the report.

COMMENT - ONSITE FATALITY OR INJURY

(7) Rewrite this that any person who is injured and radioactively contaminated will be considered a reportable injury. (1)"

The definition of the reporting category under paragraph 50.72(b)(7) is too broad. Although this paragraph represents an improvement on the present requirement to report any injuries or fatalities at a facility, it still gives no consideration to the seriousness of the injury or to the extent of the radioactive contamination. Minor first aid, even if some contamination is involved, does not represent a hazard to the public or serve as a precursor of more serious problems. We believe reporting of serious injuries involving radiation, for which hospitalization for more than 48 hours is a probability, is a more appropriate guideline and should be incorporated into this section. Furthermore, the radioactive contamination reportability of such injuries should be limited to only those injuries involving exposure or body burden in excess of 10 CFR 20 limits. (7)

The proposed change to 10 CFR 50.72(b)(7) would require notification in the event of "on-site" fatality or any injury involving radiation occurring on-site that requires transport to an off-site medical facility for treatment." WPS believes that "on-site" should be defined as that area of WPS owned property exclusively used by WPS. This definition is of concern due to the leasing of WPS owned property surrounding the plant by area farmers. A fatality on this land unrelated to the operation of the plant should not be a reportable event. (12)

> Do the reportability requirements of this paragraph apply to all fatalities or only those fatalities caused by radiological exposure? (15)

Paragraph 7, "Reporting of Fatality or Personal Injury"

INPO recommends either the elimination of this item from one-hour reporting, elimination of the requirement entirely, or moving this item to the proposed "Public Interest Notifications" category of the Rule. (18)

[50.72 (b)(7)]

This event category consists of any onsite fatality or any injury involving radiation occurring onsite that requires transport of an offsite medical facility for treatment. "Injury involving radiation" is defined to include contamination incidents as well as radiation exposure incidents. The transportation of an injured, contaminated individual to an offsite medical facility is covered in NUREG-0654, Appendix 1, Unusual Event Initiating Condition 16 and is therefore included in Section 50.72(a). Thus, this event category should be limited to radiation exposure events and should read "Any onsite fatality or any injury involving radiation exposure occurring onsite that requires transport to an offsite medical facility for treatment". (20)

RESPONSE

Based on these comments, this criterion is included in the "four hour notification" instead of "one hour notification" section. (18)

The NRC believes that such injuries requiring transport to an offsite medical facility could not be considered "minor first aid" as some commentors suggest. (7)

The reporting criteria in the final rule requires notification of any fatality involving radiation if the death was caused by radiation, and any fatality that receives media attention or is part of notification to state and local authorities. (15)

The reporting criteria of 10 CFR 50.72 now explicitly include criteria to capture "Unusual Events." (20)

The NRC does not intend that the term "on-site" should take on a meaning beyond that area regulated by the NRC. (12)

COMMENT - PERSONNEL RADIOACTIVE CONTAMINATION

Section 50.72(b)(8):

This requirement is quite subjective in its use of the terms "extensive onsite decontamination" and "readily removed". A wide variation in interpretation is likely to result. A quantitative definition of what constitutes "extensive" needs to be provided along with an elaboration of what is meant by "readily removed". (6)

50.72(b)(8) - Are all cases of personnel contamination which cannot be removed using routine onsite decontamination procedures considered "extensive"? (15)

10CRF 50.72(b)(8)

This paragraph uses vague terms, such as "extensive", "readily removed" and "routine", making it difficult to implement. The first sentence should be rewritten as follows: "Any personnel radioactive contamination requiring extensive onsite decontamination or outside assistance and which results in limiting the individual from access to radiation and contamination areas". (17)

Paragraph 8, "Decontamination and Off-Site Treatment"

INPO recommends either the elimination of this item from one-hour reporting, elimination of the requirement entirely, or moving this item to the proposed "Public Interest Notification" category of the Rule. (18)

(b)(8) "Any personnel radioactive contamination requiring extensive... routine decontamination procedures need not be reported."

This appears to allow a great deal of interpretation on what the word "extensive" means. One utility may determine two hours as extensive whereas another utility may determine 20 hours or assistance from a doctor (medical director) as extensive. It is recommended that additional guidance be given on this item. (19)

RESPONSE

Based on the comments received, vague terms such as "extensive onsite contamination" and "readily removed" are not used in the final rule.

COMMENT - CONTINUOUS PHONE CONTACT

We are very concerned with the proposed requirement of paragraph 50.72 (c)(3) that the licensee maintain an open communications channel with the NRC upon request. There is no justifiable concern for requiring an open line immediately after a prompt notification. Rather, the Licensee should be allowed to devote full attention to plant operation while the NRC reviews the information provided. If additional information is required, the Operations Center can simply call back to request such information or contact the NRC Resident Inspector. In the unlikely event of the failure of the ringing mechanism, one of the redundant communications channels, such as commercial telephone, can be utilized to contact the licensee's facility. We repeat the suggestion made in our June 4, 1980 letter that consideration be given to utilization of one of the Resident Inspectors as communicator if it becomes necessary to maintain an open channel of communications. (7)

Section 50.72(c)(3) - We believe this section is most appropriate with the latitude given by the words "upon request by the NRC." (9)

- The proposed rule also states "Maintain an open, continuous communication channel with the NRC Operation Center upon request by

the NRC." There is no need to maintain an open communication channel in light of the installed Emergency Notification System. The emergency notification system is a hotline connecting the control room, TSC or EOF with the NRC's Operation Center and thus, there is no need to have someone continuously manning that channel. (15)

Paragraph C (1), "Requirement for On-Going and Follow Up Phone Contact"

The requirements of this paragraph as written add an unnecessary burden upon the plant operating staff. Unless the event meets some criteria for severity, followup and end of incident telephone conversations should not be required. (18)

RESPONSE.

The NRC will not always require a continuous open communications channel, but the NRC will on certain occasions require it. An example of when this would be necessary is - during an accident, the ENS is unavailable and to hang-up on commercial line would mean indefinite loss of communication of a busy phone system. Another example would be when the NRC finds it necessary to have continuous communication because of the need for information during a complex rapidly evolving emergency.

COMMENT - DUPLICATE PHONE CONTACT

Station operations personnel need to devote their attention to the emergency or security situation at hand. Duplicate reports to different organizations within the NRC deprive Station personnel of valuable reaction time and could result in a "rushed" decision which may prove later to be ill-advised because of incomplete information or limited assessment time. The Licensee's telephone reporting requirement should be limited to a single call to the NRC in a timely manner; the NRC should be responsible for disseminating the information to all sub-organizations who may have an interest. (11)

The proposed change to 10 CFR 50.72(a) states, "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 a report being made promptly to the NRC Operations Center." WPS believes that when the NRC "Director of Site Operations" (defined in NUREG-0726 Report to Congress NRC Incident Response Plan) arrives at the site, required notifications should be made to this NRC official who can then provide notification to the appropriate NRC Operations Centers. This will eliminate the redundancy of the license notifying the on-site NRC personnel and repeating the message to the NRC Operations Center. (12)

RESPONSE

The NRC is organized to disseminate information as the commentor (11) suggests by use of the NRC Operations Center. However, more than one call may be necessary in order to describe an event.

If the NRC has personnel on-site during a particular event, then the NRC operations center will obtain some information from them. However, this does not obviate the need for the licensee to make the required initial notification to the NRC Operation Center and such subsequent notifications as are necessary to keep the NRC fully informed.

COMMENT - NOTIFICATION TIMING

This notice refers to a change and formulation of what constitutes events that must be immediately reported to the NRC. However, Immediate in the rule does not really mean what immediate means in common usage. For instance, the rule states that "Each Licensee... shall notify the NRC Operations Center... each time there is an initiation of any of the four Emergency Classes..." There is no idea of what "initiation" means. Does initiation mean all the criteria for a class has been observed or calculated or found out thru some other means? Which data must be communicated to whom before an "initiation" is an accomplished fact? Must off site management be contacted and approved before an "initiation" is an accomplished fact? (1)

The Illinois Emergency Services and Disaster Agency is the principal State Agency charged with the development of the protective action plan, under NUREG 0654 to protect the citizens in the vicinity of nuclear generating in the unlikely event of an accident. As the most nuclearized State in the Nation, Illinois has developed solid plans and procedures to respond to any significant event that should occur at one of the nuclear generating facilities. Specifically germaine to the proposed rule change is the graduated response necessary following the declaration of an emergency classification. The revision to the Section 50.72 (a), "Notification of significant events" addresses directly one of our few remaining concerns, i.e., the prompt notification to the state upon the initiation of any one of the four emergency classifications. The inclusion in the revision that "All such notifications to the NRC shall be made immediately after notification to the appropriate State or local agency..." is a significant improvement and deserves the most positive consideration by the NRC. Illinois ESDA strongly supports the inclusion of the above quoted revision in that the operative word "after" will reduce the response time for those governmental entities most directly affected should an accident occur. (3)

We support the declaration in paragraph 50.72(a) that all notification to the NRC concerning activation of a site emergency plan for any of the four emergency classes be made after notification of state and local agencies, since if prompt (15-minute) notification becomes necessary, time might be lost in attempts to first complete the NRC notification. (7)

Section 50.72 (b) - If a real emergency exists, the notification is immediate under 50.72(a). Other situations reportable under 50.72(b) do not have a timeliness associated with the notification. Unless notification is mandated under section 50.72(a) a "four-hour" time frame for notifications under section 50.72(b) should be more than adequate.

Section 50.72 (a) - We believe this section is appropriate in that notifications to the NRC are made immediately after notification to the appropriate State or local agencies. However, it would seem to be more correct if the words "and" was placed between State and local versus the word "or". (9)

It appears that the new Subsection (f) is deficient in several areas. First, it does not define a time limit for notification of accidents to the commission, instead it uses the word "immediately". (17)

INPO commented during draft review of the development of the proposed Rule, 10 CFR 50.73, in a letter dated November 10, 1981, that in light of requirements in the LER Rule, reporting requirements under 10 CFR 50.72 should be modified to reduce one-hour reporting requirements to those events requiring an immediate notification. It was recommended that 10 CFR 50.72 notification no longer be required for the following events under the present Rule 50.72(4), (5), (7), (8), and (11). (18)

It is recommended that the proposed Rule be divided into two sections: those events and conditions that have safety impact on the plant requiring one-hour notification and another section headed, "Public Interest Notifications," which would encompass events whose nature would require reporting in a longer time frame. It is suggested that this time frame be "as soon as practical but not later than six hours after the initiation of the event." This would indicate to the public the lesser importance of these types of events. (18)

RESPONSE

Initiation of any Emergency Class means that the licensee has declared an Unusual Event, Alert, Site Area Emergency or General Emergency. Each licensee has an approved emergency plan. (1)

The NRC staff has adopted commentor's (9) suggestion and developed a "four-hour notification" for some types of events. This also satisfies the thrust of comment (18).

Commentor (17) is referring to Congressionally enacted legislation which is not subject to NRC rulemaking.

COMMENT - PROMPT REPORTING

(c)(1) and (2) What does promptly mean? Is there a time limit? Specify within 15 minutes, 1 hour or some other proper time period. (Seconds?) (1)

Paragraph (c) (2), "Reporting Not Understood Plant Events"

This paragraph would be clearer if the words, "information related to" were deleted as noted.

"(2) Promptly report the results of ensuing evaluations or assessments of plant conditions, the effectiveness of response or protective measures taken, and information related to plant behavior that is not understood." (18)

RESPONSE

Promptly means immediately, without delay. If a licensee were extremely busy dealing with an emergency, it should still have sufficient staff available to notify the NRC promptly of an emergency or if an emergency becomes worse. (1)

The NRC chose to exclude the phrase "information related to plant behavior that is not understood." (18)

COMMENT - COORDINATION BETWEEN 50.72 AND 50.73, OTHER RULES REG. GUIDE 1.16 AND NUREG 0654

The requirements of 10 CFR 50.72 in some instances overlap with the requirements of 10 CFR 20.403 giving rise to conflicts in how and to whom the notification is to be made (see proposed 10 CFR 50.72 (a) and (b) vs. 10 CFR 20.403(a) and (b)), what event levels require notification (see proposed 10 CFR 50.72(b)(6) vs. 10 CFR 20.403(a)(2)) and how rapidly the notification is to be made. To simplify licensee compliance with these regulations, we recommend that consideration be given to consolidating the two sets of requirements as they apply to nuclear power reactors licensed under 10 CFR 50.21(b) or 10 CFR 50.22. If such consolidation is not possible, every effort should be made to eliminate conflicts between the two regulations. (4)

We wish to again call your attention to the need for the NRC to review and consolidate reporting requirements to eliminate inconsistencies which presently exist and to minimize the possibility that a required report may be inadvertently omitted. (7)

Proposed paragraph 50 72(b)(2) requires that events which explicitly threaten the safety of the nuclear power plant or site personnel be promptly reported to the NRC Operations Center. This paragraph also specifies that when reporting events involving threats to the security of special nuclear material, licensee is also required to comply with the additional reporting requirements of 10 CFR Section 73.71. This requirement necessitates duplicate reports to different groups within the NRC since the Section 73.71 reports must be made to the NRC Regional Office. With the routine internal notification of the NRC Operations Center to the Regional Office duty officer of all red phone reports, the second NRC notification by the licensee is redundant and unnecessary. The words of the proposed rule should be modified to state

that if a notification is made pursuant to 10 CFR paragraph 50.72(b)(2) concerning an event which threatens the security of special nuclear material, additional notification pursuant to 10 CFR 73.71 is not required. (7)

They are redundant to existing reporting requirements and inconsistent with many existing ones. In addition, they pose an unnecessary burden on licensees with no clear compensatory benefit to anyone. Finally, 50.54(w) should be either withdrawn or made to reference the final emergency planning rule (10 CFR 50, Appendix E). (10)

- Those portions of 10 CFR 50.72 that are not duplicated by Appendix E are already existing reporting requirements by Technical Specifications (Reg. Guide 1.16 - LER System) and 10 CFR 21. Justification for increased administrative burden, caused by making these immediate notification items, should be thoroughly examined. If justified, Reg. Guide 1.16, Technical Specifications, 10 CFR 21, etc. should be revised to maintain consistency. (10)

- As stated in the subject Federal Register Notice, the conferees "...intended that the Commission establish specific guidelines for the identification of accidents which could result in unplanned release of radioactivity in excess of allowable limits ..." (emphasis added). These guidelines have already been elaborated and implemented by licensees as a result of 10 CFR 50, Appendix E. It seems clear that the detailed guidelines in 10 CFR 50.72 will merely result in immediate notification for situations not normally associated with accident scenarios. (10)

- Section 201 of Public Law 96-295 required that "... in case of any accident which could result in an unplanned release ... the licensee shall immediately so notify the Commission. ..."

The NRC's recent final rule on emergency planning (10 CFR 50, Appendix E) now requires that procedures be established for immediate notification of the NRC and state and local emergency response personnel in situations which could lead to an unplanned release. This requirement seems to pretty well satisfy the congressional mandate, therefore, 10 CFR 50.72 appears totally unnecessary. (10)

The proposed rulemaking regarding 10 CFR 50.72 requires that certain 73.11 security events be reported to the NRC Operations Center via the Emergency Notification System. An existing regulation, 10 CFR 73.71, requires that security events by reported to the appropriate NRC Regional Office. (11)

NUREG-0654, Appendix 1, states that the declaration of an Unusual Event is required if "Radiological effluent technical specification limits are exceeded." 10 CFR 50.72(a) requires notification of the NRC within one hour following the declaration of any of the four emergency classes. The proposed reporting requirement in 10 CFR 50.72(b)(6) establishes an additional notification for releases that neither coincides with Technical Specifications nor suggested Emergency Action Levels from NUREG-0654. Consideration should be given to eliminating an additional reporting value in situations where the event has previously been reported per emergency planning procedures. (12)

The NRC has immediate reporting requirements contained in other sections of 10 CFR (parts 20, 70, 73 for example) that are ignored, duplicated or encompassed by the 50.72 requirements. Reporting under these other sections is to the Regional Office rather than via the Emergency Notification System, creating a situation which is confusing and has a high potential for error. It is recommended that the NRC unify, in one regulation, all short-term (less than 24 hours) reporting requirement and that regulation designate one location only for the transmittal of such notifications. (15)

The Committee to Review Generic Requirements (CRGR), has directed that reporting requirements presently existing under 10 CFR 50.72, 10 CFR 50.73, and NUREG-0654 be consolidated. We think that moving forward with the publication of a revised Rule on immediate notification requirements (10 CFR 50.72) at this time (only to be substantially revised in the near future) would be wasteful of both NRC effort and that of many utilities. Proceeding would result in duplication of effort for licensees to modify their internal procedures at the time of the new Rule becoming effective and again upon the publication of the new consolidated version of 50.72 and 50.73). (This comment is conditional upon the NRC being able to maintain substantially the same timetable for the publication of 10 CFR 50.73 which presently exists; new Rule in early 1983). (18)

We think that the invoking of NUREG-0654, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of the Nuclear Power Plants," as part of the rulemaking under Paragraph (a) of the proposed revision is inappropriate.

A recent NRC memorandum dated January 29, 1982 on the subject of Emergency Responses stated, "The CRGR recommends that the NRC issue a policy statement such as: The following NUREG documents are to be used as information only and Regulatory Guides are to be considered as guidance or as a possible approach to meeting formal requirements. Under no circumstances should the items, by virtue of their inclusion in these documents, be misconstrued as requirements to be leveled on licensees or as inflexible criteria to be used by the NRC staff reviewers." NUREG-0654 is explicitly listed. In addition to greatly increasing the scope of reporting, the NUREG-0654 also reduces the reporting time from one hour to 15 minutes. This internal NRC inconsistency should be resolved. We believe that the record of recent years, since 1979, has shown a consistent tendency to over-rate the safety significance of plant events. (18)

RESPONSE

The NRC is making a concerted effort to ensure consistent and coordinated requirements. The reporting requirements contained in the revision of 10 CFR 50.72 are being coordinated with revision of 50.73, 50.55e, 50 Appendix E, 20.402, 20.403, 73.71 and Part 21. The staff intends to reduce or eliminate any overlap and provide for coordinate reporting thresholds, timing and report submissions. In addition the "Unusual Event" category previously defined in NUREG 0654 is now explicitly defined by reporting criteria of 10 CFR 50.72, paragraph (b).

COMMENT - SPECIFY AGENT OF LICENSEE

"Each licensee" is questionable. The specific agent of the licensee having this responsibility must be designated. This agent must be civilly and criminally responsible for any delay in reporting. An agent that is onsite is preferable such as Shift Technical Advisor or Senior Operator. These specifics should at least be referred to in the regulation. There is not one mention of any specifics concerning an agent of the licensee and who he should be and what his other duties in the plant are in the regulation. This is important. Specifics will make or break the effectiveness of a rule. The lack of specifics in this rule is an invitation to the licensee to ignore this reporting requirement until forced to do so often too late. (1)

RESPONSE

The NRC chose not to adopt this suggestion, but to continue to hold the licensee responsible for activities associated with the conditions of the license and the safe operation of the plant.

COMMENT - CHAIN OF REPORTING

Generally the "chain of reporting" is not defined. By "chain of reporting" I mean who gets the info, when do they get the info, who do they give the info to, how fast must they send the info up the chain, at what point in the chain are decisions made that this is a reportable event, how fast must those decisions be made from the time the info is received, whose responsibility is it to notify the NRC. Too often all these questions are left to the Licensee to answer in a manner most favorable to himself. This was shown to be the case very strongly in several answer sessions with Dr. Denton and Victor Stello concerning the flow of information at TMI-#2. (1)

RESPONSE

The NRC has chosen not to address the issue of "chain of reporting" in this rulemaking. Nevertheless, the licensee is responsible for making such reports as are required by 10 CFR 50.72.

ENCLOSURE 3

DRAFT CONGRESSIONAL LETTERS

Dear Mr. Chairman:

Enclosed for your information is a copy of a notice of rulemaking to be published in the Federal Register.

The Nuclear Regulatory Commission is publishing a rule that amends its regulations which require timely and accurate information from licensees following significant events at licensed commercial nuclear power plants. The amended regulation (10 CFR 50.72) will clarify the list of reportable events and provide the Commission with more useful reports regarding the safety of operating nuclear power plants.

As part of this rulemaking, the Commission is also promulgating an amendment to 10 CFR 50.54, "Conditions of Licenses," in order to satisfy the intent of Congress as expressed in Section 201 of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1980 (Pub. L. 96-295.) This amendment would make the notification requirements of 10 CFR 50.72 a condition of each license for operating commercial nuclear power plants.

Sincerely,

Nunzio J. Palladino
Chairman

Enclosure:
Notice of Rulemaking

ENCLOSURE 4

REGULATORY ANALYSIS

(§50.72)

OBJECTIVE

The objective of the revised Immediate Notification System described in 10 CFR 50.72, "Immediate Notification Requirements for Operating Nuclear Power Reactors," is to enhance the safety of nuclear plants by providing for timely notification to the NRC should safety significant events occur at operating nuclear reactors.

BACKGROUND

The existing provisions of 10 CFR 50.72 have generated basically three types of problems. One problem is that certain safety significant events are not required to be reported. A second problem is that certain events are insignificant from the perspective of protecting the public health and safety but are required to be reported. The third and perhaps most important problem is that existing reporting requirements are not coordinated. For example, 10 CFR 50.73, the new "Licensee Event Report" rule and the existing 10 CFR 50.72 do not use similar terminology, phrasing, or reporting thresholds.

In addition to the reporting problems noted above, special consideration must also be given to Section 201 of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1980 (Pub. L. 96-295). The intent of Congress as expressed in that law was that the Commission establish specific guidelines for identifying accidents which could result in an unplanned release of radioactivity in excess of allowable limits and to require immediate notification of these incidents. The revision of §50.54 and §50.72 is consistent with the intent of Congress as expressed in the Authorization Act for Fiscal Year 1980.

The NRC published a proposed rule in the Federal Register on December 21, 1981 (46 FR 61894), and subsequently received twenty letters of public comment. These letters were generally supportive of the proposed revision of 10 CFR 50.72 and these letters were most useful in the development of this final rule.

ALTERNATIVES

At the outset of this rulemaking, a wide variety of regulatory alternatives, discussed below, were considered.

Alternative 1 is the status quo, not to revise §50.72. This has the advantage that licensees are already familiar with the terminology and reporting thresholds contained in the present rule. However, for the reasons outlined in the "Background" section of this analysis, there is a strong case for revising §50.72.

Alternative 2 is to raise the threshold for reporting some events and eliminate reports for that have not proved useful to the Commission. By using phrasing, terminology and reporting thresholds similar to those in other portions of the Commission's regulations overlap and duplicative reporting can be eliminated. The chief disadvantage of this alternative is that it requires close coordination between the revision of various rules and this results in some delay and considerably increased effort on the part of the NRC staff.

Alternative 3 is to proceed with the required revisions of §50.72, but not require the close coordination between this rulemaking and others.

The alternatives considered for the reporting requirements contained in §50.72 would have the following results:

1. have approximately the same number of reports,

2. reduce the number of reports, or

3. increase the number of reports

Alternative 1 would impose the approximately same burden on licensees. However, the Commission has determined that some reports now required are not necessary.

Alternative 2 would eliminate reports that have not been useful to the Commission. Experience with telephone notifications to the NRC Operations Center has demonstrated that there are three categories of reports that have not been useful. One category is worker injury reports. Worker injury reports typically have little or no relationship to the general public health and safety. If for example, a worker has chest pains, he is usually sent to a local hospital to determine if he has had a heart attack, but this information has not been useful to the NRC. A second category, minor radiation release, has not been useful to the NRC. Often the NRC Operations Center receives reports of releases that can barely be measured at the point of release, and have no radiological significance to the public health. The third category, minor security problems has proven to be of little value to the NRC.

Alternative 3 is unwarranted because improvements can be made at the present level of reporting by eliminating unnecessary notifications and substituting useful notifications. The Commission is not aware of any compelling reason for increasing the number of reports.

The need for coordination with other provisions of 10 CFR, most notably the new LER system (10 CFR 50.73), resulted in the selection of the approach defined in the final rule. Each of the reporting criteria adopted in the final rule was

selected from a range of possible alternatives and each was considered carefully, usually by a committee representing the various elements of the NRC staff familiar with the required information and the way the information could be collected from licensees in the least burdensome manner through a particular reporting requirement.

Consequently, alternative 2 was selected.

BENEFITS AND COSTS

The NRC staff weighed the costs and benefits associated with revising 10 CFR 50.72. The optimum benefit is derived by revising both 10 CFR 50.72 and related portions of other reporting requirements because this would provide a coherent reporting system using similar terminology, phrasing and reporting thresholds. Accordingly, revision of 10 CFR 50.72 is being coordinated with development of 10 CFR 50.73. In addition, a number of substantive or administrative changes are being developed that will amend other sections of 10 CFR Part 50, Part 20, and Part 21.

The value of revising 10 CFR 50.72 goes beyond dollar benefits. The capability of the NRC to make timely decisions and to provide adequate assurances regarding actual or potential threats to public health and safety depends heavily on how rapidily significant events at nuclear power plants are communicated by licensees to NRC. The majority of events occurring throughout the nuclear industry pose little or no serious or immediate threats to the public health and safety; however, certain events do pose such threats or generate fear or unusual concern.

NRC has an obligation to collect facts quickly and accurately about significant events; assess the facts; take necessary action; and inform the public about the extent of the threat, if any, to public health and safety.

Not only must NRC act promptly to prevent or minimize injury to the public, it must also take appropriate action to alleviate unwarranted fear or concern created as a result of such events.

The staff expects that there will be little significant additional cost to the NRC or to licensees associated with the effective rule changes, however, the staff would like to point out the costs that have been associated with establishing and implementing a immediate notification system. These costs are 6 man-years per year of NRC staff effort for manning the telephones for notification and $1.5 million per year for dedicated telephone lines to each operating commercial power reactor facility.

Other Government Agencies

Improvements to the immediate notification requirements would contribute to improved State and local emergency response around nuclear power reactors.

Applicant agencies (e.g., TVA, DOE) would be affected as presented under the Industry section below.

Industry

There should be little additional cost to the industry associated with implementing the final rule changes in addition to those incurred in order to comply with NRC's emergency preparedness regulations.

The present cost of reporting under §50.72 for the entire industry is estimated to be $46,000 per year exclusive of the costs incurred in order to comply with NRC's emergency preparedness regulations. This basis of this cost estimate is as follows:

The person who makes the notification pursuant to §50.72 is usually the shift supervisor who is a licensed senior reactor operator. When taking into

account salary, cost of training, and overhead, this individual's time is worth approximately $100 per hour.

Each telephone notification to the NRC Operations Center pursuant to §50.72 takes on average about 15 minutes, although most notifications take less time and a few take much more time.

The NRC Operations Center typically receives 5 telephone notification pursuant to §50.72 per day.

A computation at the present cost to the industry is:

$$\left(5 \frac{\text{calls}}{\text{day}}\right) \times \left(\frac{1}{4} \frac{\text{hours}}{\text{call}}\right) \times \left(365 \frac{\text{days}}{\text{year}}\right) \times 100 \frac{\text{dollars}}{\text{hour}} = \$45{,}625$$

If the revised §50.72 is promulgated, the cost of reporting is estimated to remain unchanged. A survey of telephone notifications made to the NRC Operations Center during January 1983 showed the following:

95 - were reports by licensees which would still be reported under the revised §50.72.

67 - were reports which would not be required by the revised §50.72.

11 - were courtesy calls and other calls made by licensees which are not required by §50.72.

6 - were courtesy calls and other calls requesting assistance regarding events not related to power reactors.

---

179 - total event oriented calls.

This suggests an approximate 41% $\left(\frac{67}{95+67}\right)$ reduction in the number of

reports mode pursuant to §50.72. However, a small countervailing increase in reporting could be expected from such new reporting criteria as "loss of emergency assessment offsite response capability or communications capability" (§50.72(b)(v)) and "news release or notification to other government agencies" (§50.72(b)(2)(vi)).

Public

Improvements to the immediate notification requirements would provide increased confidence that the health and safety of the public would be protected during a radiological emergency because State and local governments would be better informed.

Decision on the Action

Since the final rule reflects many of the public comments on the proposed rule, and should improve the public health and safety, the final rule changes should be approved and published in the Federal Register to become effective within 60 days of the date of publication.

SPECIFICATION OF CRITERIA

A number of commenters found the revised §50.72 to be an improvement. The changes adopted for promulgation in the final rule reflect many of the changes recommended by commenters.

The revised §50.72 should be a substantial improvement in terms of:

Clarity

The final rule clearly and explicitly includes reporting criteria for events that were previously described by examples in NUREG-0654.

Order

The order of the criteria in the final rule has changed from that in the proposed rule. By reorganizing the criteria, improvements can be made in consistency with similar criteria in 10 CFR 50.73. The final rule incorporates many of the same types of reporting criteria used in 10 CFR 50.73.

Report timing

The final rule contains a provision that requires licensee to notify the NRC "as soon as practical and in all cases within one hour of the occurrence" of certain events. In addition, the final rule incorporates a provision for reporting some occurrences within four hours instead of one hour. This is permitted because occurrences satisfying some of the criteria are less serious or have less immediate safety significance than other events. The one-hour reports are covered in paragraph (b)(1) of §50.72 while the four-hour reports are covered in paragraph (b)(2).

FINAL DECISION

Based on the comments received on the proposed rule, and its own assessment of the impact of this rule, the staff has concluded that the revised 10 CFR 50.72 will: (1) not place an unacceptable burden on licensees, (2) have significant safety benefits for the public, (3) reduce reporting burden on licensees, and (4) increase the effectiveness of the Immediate Notification System.

Therefore, the staff concludes that the 10 CFR 50.72 rule should be promulgated.

ENCLOSURE 5

NRC ADOPTS CHANGES TO IMMEDIATE REPORTING REQUIREMENTS FOR SIGNIFICANT EVENTS AT NUCLEAR POWER PLANTS

The Nuclear Regulatory Commission is changing its regulations to provide further guidance to operators of nuclear power plants on significant events that must be reported immediately by telephone to the NRC Operations Center in Bethesda, Maryland.

On December 21, 1981, the Commission published a proposed rule to revise and clarify its notification requirements issued on February 29, 1980. Experience with the existing requirements and public comments on the changes proposed in 1981 indicate that the regulations should be amended to clarify reporting criteria and require early reports only on matters of value to the exercise of the Commission's responsibilities.

Several categories of events required to be reported within one hour have been found to be not useful on an immediate basis. Examples include worker injury not related to radiation, small releases of radioactive material below the limits permitted by the license and minor security problems such as a short malfunction of the security computer.

Under the new regulations, a licensee must notify the NRC Operations Center within one hour after it declares an emergency or one of the following non-emergency conditions occurs:

(1) The initiation of any nuclear power plant shutdown required by the plant's operating license;

(2) Any event or condition during operation that results in the condition of the plant being seriously degraded or in an unanalyzed condition that significantly compromises plant safety, a condition outside the design basis of the plant or a condition not covered by the plant's operating and emergency procedures;

(3) Any natural phenomenon or other external condition that poses an actual threat to the safety of the nuclear power plant or significantly hampers site personnel in the performance of duties necessary for the safe operation of the plant;

(4) Any event that results or should have resulted in an emergency core cooling system discharge into the reactor coolant system as a result of a valid signal;

(5) Any event that results in a major loss of emergency assessment, off-site response or communications capability;

(6) Any event that threatens the safety of the plant or significantly hampers site personnel in the performance of duties necessary for the safe operation of the plant, including fires and toxic gas or radioactive releases.

In addition, the licensee must notify the NRC within four hours of certain other events, such as an occurrence requiring the transport of a radioactively contaminated person to an offsite medical facility for treatment.

Further details on the revised requirements, which are contained in Part 50 of the Commission's regulations, are provided in a Federal Register notice published on _____.

#

ENCLOSURE 6

46 FR 61894
Published 12/21/81

Comments must be submitted in writing on or before 2/19/82. Comments received after that date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before the due date specified herein.

10 CFR Part 50

Immediate Notification Requirement for Operating Nuclear Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing a change to 10 CFR 50.54 to implement the provisions of section 201 of the NRC's 1980 Fiscal Year Authorization Act in light of the existing requirement that licensees notify the NRC of certain "significant events" specified in the NRC regulations. Under the proposed rule, every operating license for a nuclear power reactor would require as a condition that licensees immediately notify the NRC of any significant event set forth in 10 CFR 50.72. The Commission is also proposing to clarify the list of reportable significant events in 10 CFR 50.72.

DATE: Comments must be submitted in writing on or before February 19, 1982. Comments received after that date will be considered if it is practical to do so, but assurances of consideration cannot be given except as to comments filed on or before the due date specified herein.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposal rule change and/or the supporting Value/Impact analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of the Value/Impact analysis and of the comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Single copies of the Value/Impact analysis may be obtained through written request.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (telephone: 301-443-5942).

SUPPLEMENTARY INFORMATION: Section 201 of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1980 (Pub. L. 96-295) (hereinafter "Authorization Act") provides:

> (a) Section 103 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following new subsection: "i. Each license issued for a utilization facility under this Section or section 104 b. shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 187 of this Act, the Commission shall promptly amend each license for a utilization facility issued under this section or Section 104 b. which is in effect on the date of enactment of this subsection to include the provisions required under this subsection."

The Conference Report accompanying Pub. L. 96-295 stated that the conferees recognized the need for predictability by licensees in determining those situations which would require immediate notification. The conferees further intended that the Commission establish specific guidelines for the identification of accidents which could result in an unplanned release of radioactivity in excess of allowable limits, and that the immediate notification requirement would take effect when such guidelines were established. H. Conf. Rep. No. 96-1070, 96th Cong., 2d Sess., 30 (June 4, 1980).

Accordingly, the Nuclear Regulatory Commission is proposing to revise two sections of 10 CFR Part 50. The first proposed revision would amend 10 CFR 50.54 by adding an appropriate notification requirement in the list of conditions in the operating license of each nuclear utilization facility licensed under Sections 103 and 104b of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2133, 2134b (the "Act"). In particular, licensees having Section 103 or 104b licenses would be required, as a condition of their operating licenses, to notify the NRC immediately of any "significant event" set forth in 10 CFR 50.72. This license condition would be added to § 50.54, thus eliminating the need to amend each license individually. These section 103 and 104b facilities are the commercial nuclear power facilities that produce electricity for public consumption. Research and test reactors are not subject to the proposed license conditions as they are licensed under section 104a or 104c of the Act.

Licensees are not subject to certain notification requirements, both as to the contents of their applications for operating licenses and as to actions authorized by the operating licenses, but none of these present requirements are specifically addressed to section 201 of the FY 1980 NRC Authorization Act. All applications for section 103 or 104b licenses are now required by § 50.34 to include emergency plans that contain the various elements set forth in 10 CFR Part 50, Appendix E. Section IV.D. of Appendix E requires the plans to include procedures for notifying local, state, and Federal officials. Once an operating license under section 103 or 104b is granted, the licensee is required by 10 CFR 50.72 to actuate immediate notification procedures upon the occurrence of any of the specific "significant events" described in § 50.72. In the final rule adding § 50.72 to 10 CFR Part 50, the NRC stated that the § 50.72 notification requirements were established partly "[i]n view of (1) the significance of these twelve types of events with respect to their ability to jeopardize the health and safety of the public * * *" (45 FR 13434, 13435, Feb. 29, 1980).

The NRC considers that incorporation of the immediate notification requirements of § 50.72 into § 50.54 as a condition in every operating license granted under sections 103 and 104b of the Act will implement the Congressional mandate in section 201 of the Authorization Act. Section 201, however, also provides that immediate notification of the NRC be made for "any accident which could result in an unplanned release of quanties of fission products in excess of allowable limits of normal operation established by the NRC." This provision would be implemented by the changes proposed to § 50.72 also contained in this notice.

The NRC has provided, since the enactment of section 201, further guidance for operating licensees as to situations or events which require

notification by the licensee of the NRC and State and local response organizations and other emergency personnel. On August 19, 1980, the NRC published the final rule on Emergency Planning, effective on November 3, 1980 (45 FR 55402–15). This rule established a multifaceted emergency planning and preparedness program and, among other things, required procedures to be established for immediate notification of the NRC and State and local emergency response personnel in certain situations.

These situations were discussed in Revision 1 to NUREG–0654/FEMA–REP–1 [1] entitled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Plants" (hereinafter "Revision 1"), which was issued in November 1980, shortly after the Emergency Planning rule became effective. Revision 1 specified four classes of Emergency Action Levels involving notification actions—Notification of Unusual Event, Alert, Site Area Emergency, and General Emergency. Revision 1 also set forth examples of initiating conditions for each of these four Emergency Classes: 26 examples for the first level, 29 for the second, 24 for the third, and 15 for the fourth.

As stated on page 1–3 of Revision 1:

> The rationale for the notification and alert classes is to provide early and prompt notification of minor events which could lead to more serious consequences given operator error or equipment failure or which might be indicative of more serious conditions which are not yet fully realized. A gradation is provided to assure fuller response preparations for more serious indicators. The site area emergency class reflects conditions where some significant releases are likely or are occurring but where a core melt situation is not indicated based on current information. In this situation full mobilization of emergency personnel in the near site environs is indicated as well as dispatch of monitoring teams and associated communications. The general emergency class involves actual or imminent substantial core degradation or melting with the potential for loss of containment.

The criteria set forth in Revision 1 and the examples of events triggering the respective Emergency Classes (with attendant notification actions) provide additional guidance for every operating licensee in the preparation, approval, and ultimately, the implementation of their emergency preparedness plans which must be submitted to NRC for evaluation pursuant to 10 CFR 50.47.

Given the above-mentioned NRC materials, sections 103 and 104b operating licensees now have guidelines which provide a sufficient level of predictability concerning situations requiring immediate notification of the NRC. The NRC, therefore, proposes to implement section 201 of the FY 1980 NRC Authorization Act by incorporating existing 10 CFR 50.72 immediate notification requirements (as clarified and revised by this proposed rule) into 10 CFR 50.54, which prescribes the conditions of every operating license for facilities licensed under sections 103 and 104b. The proposed § 50.72 revisions encompass the standard set forth in section 201 of the Authorization Act.

In addition, the NRC has received public comments from thirteen licensees and two other industry sources on § 50.72 and the NRC staff has now had experience with that rule. A significant number of comments stated that the February 29, 1980 final regulation (45 FR 13434) contained many requirements (such as paragraphs § 50.72(a)(7), (a)(8), and (a)(9)) that were vague, too broad in scope, and ambiguous.

The staff's experience has indicated an agreement with many of the concerns of the commenters regarding unnecessary notifications to the NRC. All of the new provisions in the proposed rule reflect these concerns by being more specific as to what significant events should be reported to the NRC. For example, paragraph § 50.72(b) in the 1980 regulation required a licensee to "establish and maintain an open, continuous communication channel." The new proposed regulation would require a licensee to make the initial notification to NRC followed by a second notification when the event terminates or worsens and only maintain a continuous channel when requested. The licensee would need to maintain an open channel only when requested to do so by the NRC.

Likewise, proposed paragraph (b)(6) would modify the 1980 regulation by establishing a reporting threshold of 25% of the applicable Technical Specification limit for instantaneous releases offsite. This threshold was based on engineering judgment and experience as to what percentage level was appropriate to adequately protect the public health and safety.

The 1980 regulation also required in § 50.72(a)(10) that "any serious personnel radioactive contamination . . ." be reported. The staff agrees with comments that this requirement is ambiguous and therefore has included a clarification of what is meant by a personnel contamination that is reportable under the proposed rule.

These proposed modifications to § 50.72 are being made after full consideration of the mandate of section 201 of the Authorization Act. It is expected that these modifications will provide further predictability for licensees in determining situations which would require immediate notification to the NRC.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the NRC has made a preliminary determination that these proposed regulations do not impose new reporting, recordkeeping, or information collection requirements. These proposed regulations will nevertheless be submitted to the Office of Management and Budget for its consideration of any potential or new reporting, recordkeeping, or information collection requirements, pursuant to Pub. L. 96–511.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities. These proposed regulations affect electric utilities that are dominant in their respective service areas and that own and operate nuclear utilization facilities licensed under sections 103 and 104b of the Atomic Energy Act of 1954, as amended. The amendments clarify and modify existing notification requirements and incorporate them as a condition of the respective operating licenses. Accordingly, there is not new, significant economic impact on these licensees nor do these licensees fall within the definition of small businesses set forth in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

For the reasons set out in the preamble and pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 is contemplated.

[1] Copies of NUREG documents are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 reads as follows:

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2239); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246 (42 U.S.C. 5841, 5842, 5846), unless otherwise noted. Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended: (42 U.S.C. 2234). Sections 50.100–50.102 issued under sec. 186, 68 Stat. 955; (42 U.S.C. 2236). For the purposes of sec. 223, 68 Stat. 958, as amended: (42 U.S.C. 2273). § 50.54(i) issued under sec. 161i, 68 Stat. 949; (42 U.S.C. 2201(i)) §§ 50.70, 50.71, and 50.78 issued under sec. 161o, 68 Stat. 950, as amended: (42 U.S.C. 2201(o)), and the Laws referred to in Appendices.

2. A new paragraph (w) is added to § 50.54 to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(w) In the case of every utilization facility licensed pursuant to Section 103 or 104b of the Act, the licensee shall immediately notify the NRC Operations Center of any significant event set forth in § 50.72 of this part.

3. Section 50.72 is revised to read as follow:

§ 50.72 Notification of significant events.

(a) Each licensee of a nuclear power reactor licensed under § 50.21 (b) or § 50.22 of this part shall notify the NRC Operations Center via the Emergency Notification System each time there is an initiation of any of the following four Emergency Classes: Notification of Unusual Event, Alert, Site Area Emergency, of General Emergency.[1] All such notifications to the NRC shall be made immediately after notification to the appropriate State or local agencies and shall identify that the notice is being made under this pargraph. 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 a report being made promptly to the NRC Operations Center.

(b) Each licensee of a nuclear power reactor licensed under § 50.21 (b) or § 50.22 shall also notify the NRC Operations Center via the Emergency Notification System as soon as possible and in all cases within one hour of the occurence of any of the following events if not reported under paragraph (a) of this section and shall identify the event as being reported under this paragraph. If the Emergency Notification System is inoperative, the licensee shall make the required notification via commercial telephone service, other dedicated telephone system, or any other method which will ensure a report being made promptly to the NRC Operations Center. The events to be reported are:

(1) Any event that results in the nuclear power plant being in a condition not governed by the plant's operating or emergency procedures.

(2) Any act of nature, event, or personnel act that explicitly threatens the safety of the nuclear power plant or site personnel in the performance of duties necessary for the safe operation of the nuclear plant or the security of special nuclear material, including strikes of operating personnel, and instances of sabotage or attempted sabotage. When reporting events involving sabotage, attempted sabotage or events which threaten the security of special nuclear material, the licensee shall also comply with the requirements in § 73.71 of this chapter.

(3) Any event for which plant Technical Specifications require initiation of immediate shutdown of the nuclear power plant.

(4) Any instance of personnel error, equipment failure, or discovery of design or procedural inadequacies that alone could prevent the fulfillment of the safety function of those structures, systems, or components that are needed to (i) shut down the reactor and maintain it in a safe shutdown condition, (ii) remove residual heat, or (iii) control the release of radioactive material.

(5) Any event resulting in manual or automatic actuation of Engineered Safety Features (ESF), including the Reactor Protection System (RPS) (Actuation of ESF, including the RPS, which results from and is part of the planned sequence during surveillance testing or normal reactor shutdown, need not be reported).

(6)(i) For facilities which have instantaneous release rate technical specification limits derived by considering that such a release, if continued for one year, would reach the annual offsite limits of 10 CFR Part 20; any accidental, unplanned, or uncontrolled release that exceeds 25% of technical specification limits;

(ii) For all other facilities; any accidental, unplanned, or uncontrolled radioactive release offsite that exceeds, on an instantaneous basis, 25% of the applicable concentrations of 10 CFR Part 20, Appendix B, Table II, or

(iii) Any accidental, unplanned, or uncontrolled radioactive release that results in the evacuation of a building.

(7) Any onsite fatality or any injury involving radiation occurring onsite that requires transport to an offsite medical facility for treatment. (As used herein "injury involving radiation" is one in which an injured part of the body is contaminated, the injured person is wearing contaminated clothing at the time of transport, or the injury is related to radiation exposure).

(8) Any personnel radioactive contamination requiring extensive onsite decontamination or outside assistance. (Personnel contamination that can be readily removed using routine decontamination procedures need not be reported).

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

(1) Promptly report any further degradation in the level of safety of the plant or other worsening plant conditions including those that require, or may require, initiation of any of the four Emergency Classes if such initiation has not been previously declared, or the change from one Emergency Class to another or a termination of the Emergency Class.

(2) Promptly report the results of ensuing evaluations or assessments of plant conditions, the effectiveness of response or protective measures taken, and 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.

Dated at Washington, D.C. this 14th day of December 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[1] These Emergency Classes are addressed in NUREG-0654/FEMA-REP-1, entitled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," Rev. 1, November 1980.

ENCLOSURE 7

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAR 14 1983

MEMORANDUM FOR: William J. Dircks
Executive Director for Operations

FROM: Victor Stello, Jr., Chairman
Committee to Review Generic Requirements

SUBJECT: MINUTES OF CRGR MEETING NUMBER 32

The Committee to Review Generic Requirements met on Thursday, February 17, 1983, from 1-5 p.m. A list of attendees is enclosed.

F. Hebdon (AEOD) and W. Mills (IE) jointly presented for Committee review the proposed revision to 10 CFR 50.72, Immediate Notification Requirements (INR rule) and the proposed rule 10 CFR 50.73, Licensee Event Reporting (LER rule). The Committee addressed these rulemaking actions jointly because they are closely related and, along with the Nuclear Plant Reliability Data System (NPRDS) managed by INPO, are important parts of the coordinated NRC and industry operational data reporting efforts that have the objective of enhancing the safety of licensed nuclear power plants.

The INR rule and the Emergency Notification System (ENS) are intended to provide for timely notification of the NRC and other organizations should safety significant events occur at a plant. The LER rule will require the reporting of plant operational event experience to allow the staff to study operational experience primarily to identify accident precursors and thereby take timely action to prevent or mitigate similar or potentially more safety significant events.

The NPRDS, which is currently a voluntary industry program, is intended to collect and assess plant component failures (reliability data). The Committee noted that, if the NPRDS does not meet NRC's need for component failure data in the future, the staff intends to proceed with rulemaking to make the NPRDS mandatory and combine it with the LER system to form an integrated operational experience reporting system.

As presented to the Committee, the proposed LER rule concerns the 30-day significant event reporting requirements applicable to licensed nuclear power reactor plants. To assure consistency with the INR rule, immediate notification requirements and related LER requirements have been coordinated with the LER rule. The LER rulemaking package is intended to:

- Modify and codify the existing LER requirements that define the events that must be reported and define the information that must be provided in each report.

Enclosure 7

- Eliminate unnecessary and redundant reporting requirements. Only significant events are required to be reported and only one written report, an LER, is required for each significant event.

- Modify 10 CFR Parts 20.402, 20.403, 20.405, and 50.36 to conform with the LER and the INR rules in order to establish a single set of reporting requirements. The criteria contained in the subject sections, which define a reportable event, have not been modified. Similar changes are also planned as part of current activities to make more substantive changes to 10 CFR Parts 21, 50.55(e) and 73.71.

The annual reporting and recordkeeping burden on the industry to implement the proposed LER rule is estimated by the staff to be 22 LERs or 1,100 staff hours per plant (excluding analysis effort) and is estimated, based on INPO's comments, to be 2,600 staff hours per plant (including analysis effort). Therefore, the estimates of burden associated with implementing the LER rule range from 1,100 to 2,600 staff hours per plant. The staff believes that the burden will be closer to the lower end of the range. The annual NRC burden is estimated to be 80 hours per plant and $1.2 million in program support funds (including analysis effort). The staff estimates the current burden to be 59 LERs or 1,475 staff hours per plant (excluding analysis). INPO estimates the current burden to be 3,000 staff hours per plant (including analysis). Considering either estimate, the staff believes that there will be a net reduction in the existing LER burden by adoption of the proposed LER rule.

As presented to the Committee, the INR rule concerns significant event immediate reporting requirements applicable to licensed nuclear power plants. To assure consistency, the INR rule revision was coordinated with the LER rule. The INR rule revision package is intended to:

- Modify 10 CFR 50.54 to incorporate the immediate notification requirements of 10 CFR 50.72 as a condition in every operating license granted under sections 103 and 104b of the Atomic Energy Act.

- Modify the existing INR rule to clarify and narrow the scope of reporting requirements, raise the threshold for reporting, permit more time for reporting, coordinate other reporting requirements and include certain events that were not previously included in the rule. Reporting of "Unusual Event" as defined in NUREG 0654 will not be required in the proposed revision of the INR rule. Instead, the INR rule revision will provide revised criteria which require reporting similar events as "Non-Emergency Events." The proposed revision provides for reporting these events within 1 hour and other less significant events within 4 hours.

- Eliminate unnecessary and redundant reporting. Only safety significant events are required to be immediately reported and only one immediate

report is required for each event. Events having little safety significance (i.e., inquiries, minor radiological releases and security degradation) need not be reported.

- Modify portions of 10 CFR Part 50, Appendix E and supersede Reg. Guide 1.16 and portions of NUREG-0654. To expedite conforming modifications, proposed changes are being prepared with the intent to publish for public comment at the same time the proposed INR rule revision is promulgated. The LER rulemaking package includes modifications to 10 CFR Part 20 to conform with the INR rule as revised. The INR rule revision is being coordinated with current development of proposed revisions to 10 CFR Parts 21, 50.55(e), Appendix E and NUREG 0654. After these revisions are made (within 1 year), the subject requirements will conform with the INR rule.

If the proposed revision of 50.72 is promulgated, the industry annual cost for reporting is estimated to be reduced approximately 40 percent from the current level of about 6 staff hours per plant. However, for approximately half of this savings to be realized 10 CFR 73.71 needs to be revised with regard to reporting of security events. The annual cost to NRC is estimated to be the same as that for industry.

The subject of reporting requirements for licensed nuclear power plants has been addressed at previous CRGR meetings (2 and 28). Enclosure 7 of SECY-82-3, dated January 4, 1982, included Committee recommendations and the staff's plan to address those recommendations. The Committee recommendations and staff plan were reiterated at CRGR Meeting No. 28. The Committee understood that the subject rulemaking actions would have the following objectives concerning licensed nuclear power plants:

- Capture all events of safety significance in a timely manner while eliminating unnecessary reports, such as nonconsequential personnel injuries.

- Coordinate reporting with 10 CFR Part 50 Appendix E, Part 21, and sections 20.402, 403, 405, and 10 CFR 73.71.

- Combine in 10 CFR 50.72 "Unusual Events" the prompt reporting criteria previously in NUREG-0654.

The Committee previously suggested that the subject rulemaking actions should address coordination of all NRC notification and reporting requirements concerning licensed power reactors and should require no more than three notification/reporting intervals; e.g., 1 hour, 1 day and 30 days.

In this regard, the Committee believes that the LER rule has achieved the intended objectives. However, in regard to the proposed revision of the INR rule, the Committee was concerned that additional actions requiring another year are necessary to fully achieve the aforementioned objectives. Specifically, 10 CFR 21, 50.47, 50.55(e) 50-Appendix E, 73.71 and NUREG-0654

require revision to fully achieve the objectives. Also, events other than emergencies (unusual events) will continue to be reported like emergencies since they are included in the emergency classification.

The Committee judged that the following issues should be resolved and thereafter the subject rulemakings should go forward:

(a) All program office and regional comments should be addressed;

(b) The immediate notification requirements should be reviewed to see if immediate reporting of non-emergency events can be further minimized or perhaps eliminated.

(c) The proposed criteria 50.73(a)(2)(i)(B) and 50.73(a)(2)(vii) should be reconsidered to determine whether revisions are necessary;

(d) The proposed criterion 50.72(c)(4)(i) should be reviewed and changed if necessary to make clear whether or not it concerns normally monitored readings.

The Committee agreed that a task group consisting of J. Heltemes, E. Jordan, D. Eisenhut and J. Scinto would represent the Committee to assure that these issues are resolved satisfactorily. If these issues are not resolved by about March 15, 1983, the group will return to the CRGR with sharply defined issues for expeditious review.

The Commitee further recommended that actions be expedited by the staff to modify existing immediate reporting requirements in 10 CFR Parts 21, 50.55(e), 73.71, 50.47, 50 Appendix E, and NUREG-0654, agreements with organizations external to NRC and any other immediate reporting requirements concerning licensed nuclear power reactors to fully achieve the aforementioned objectives. These actions should be completed as soon as possible, but not later than 1 year after the proposed rulemaking actions are effective. If possible, an advanced notice of proposed rulemaking concerning these actions should accompany the subject proposed rulemaking actions.

50.72

By way of guidance to the staff in implmenting the rules after they take effect, the CRGR suggested that both the NRC staff and industry be made clearly aware that:

(a) The subject rules are concerned with plant safety.

(b) Immediate notifications should be primarily concerned with reporting the best information currently available concerning an event. Identifying the regulatory requirement applicable to the notification is of secondary importance.

(c) The INR rule and the ENS are intended for safety significant events of an urgent nature. Immediate notifications for nonurgent events should be discouraged.

Victor Stello, Jr., Chairman
Committee to Review Generic Requirements

Enclosure:
List of Attendees

cc: Commission (5)
Office Directors
Regional Administrators
CRGR Members
G. Cunningham, ELD
SECY
W. Mills

ATTENDANCE RECORD FOR

CRGR MEETING NO. 32

(2/17/83)

CRGR Members

V. Stello, Chairman
D. Eisenhut, NRR
J. Heltemes, AEOD
D. Ross, RES
E. Jordan, IE
W. Olmstead, ELD for J. Scinto
D. Chappell, NMSS for R. Cunningham

Others

F. Hebdon, AEOD
C. Michelson, AEOD
T. Murley, DEDROGR/D
W. Schwink, DEDROGR staff
W. Mills, IE
E. Weiss, IE
T. Allan, NMSS/SG
K. McConnell, NMSS/SG
J. Metzger, NMSS/SG
J. Wigginton, IE
Cookie Ong, OPE
K. Bissell, COM
S. Stern, NRR
T. Ippolito, NRR
J. Beard, NRR
R. Cleveland, NRR
J. Philips, ADM
F. Cameron, RES
C. Schulten, RES
W. Kane, DEDROGR staff
D. Matthews, RES
J. Joosten, COM
M. Taylor, DEDROGR staff

Enclosure 7

UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

May 16, 1983

Honorable Nunzio J. Palladino
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Dr. Palladino:

SUBJECT: ACRS REPORT ON THE PROPOSED FINAL RULES ON IMMEDIATE NOTIFICATION REQUIREMENTS (10 CFR 50.72) AND LICENSEE EVENT REPORTING (10 CFR 50.73)

During its 277th meeting, May 12-14, 1983, the Advisory Committee on Reactor Safeguards considered the proposed final rules on Immediate Notification Requirements and the Licensee Event Reporting (LER) system. A Subcommittee meeting to discuss the rules was held in Washington, D.C. on April 6, 1983. The Committee reported on the LER rulemaking prior to publication of this rule for public comment in a report to Commissioner Ahearne on March 9, 1982.

The proposed rule on Immediate Notification Requirements will reduce the number of reports having little or no safety significance. The rule will also allow somewhat more flexibility in reporting times and reflects improved coordination with other reporting requirements in the regulations.

The proposed LER rule also reduces the number of reports required and improves coordination with other reporting requirements. Reporting of events that have the potential for safety significance will be more complete and useful to analysts of operational data.

We believe that implementation of these rules would represent a substantial improvement over current reporting requirements.

As a complement to the new LER system, it is essential to have an effective Nuclear Plant Reliability Data System (NPRDS) to collect information related to the failure rates of safety-related components used in nuclear power plants. Without an effective NPRDS, the overall reporting scheme of the industry would be seriously deficient. NPRDS is being administered by the Institute of Nuclear Power Operations, and the NRC Staff is periodically examining its effectiveness. If, after a reasonable amount of time for implementation, the NRC Staff determines that NPRDS is not acceptable, remedial measures such as additional rulemaking to codify the NPRDS would be appropriate. We believe that the effort needed to make NPRDS a success represents a challenge to the industry. We wish to be kept informed of the progress toward implementing NPRDS and informed by the NRC Staff when both the LER system and NPRDS are working in concert.

Enclosure 7

Mr. Carlyle Michelson did not participate in Committee consideration of this matter.

Sincerely,

Jesse C. Ebersole

Jesse C. Ebersole
Acting Chairman

References:

1. Memo from R. DeYoung, Office of Inspection and Enforcement, NRC, to R. Fraley, ACRS, dated March 25, 1983, Subject: Immediate Notification Requirements Rulemaking (10 CFR 50.72) [includes proposed Federal Register Notice for the final Immediate Notification rule (50.72)].
2. Memo from C. J. Heltemes, Office for Analysis and Evaluation of Operational Data, NRC, to R. Fraley, ACRS, dated March 21, 1983, Subject: Licensee Event Report (LER) Rulemaking (10 CFR 50.73) [includes proposed Federal Register Notice for the final LER rule (50.73)].
3. Feasibility Study on the Acquisition of Licensee Event Data, dated October 25, 1982, Brookhaven National Laboratory, BNL/NUREG-51609, NUREG/CR-3026.

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

(1) RCD
(2) Sorber

May 31, 1983

MEMORANDUM FOR: Richard C. DeYoung, Director
Office of Inspection and Enforcement

FROM: Harold R. Denton, Director
Office of Nuclear Reactor Regulation

SUBJECT: CONCURRENCE IN THE FINAL RULE AMENDING THE IMMEDIATE NOTIFICATION REQUIREMENT (10 CFR 50.72)

In response to your request of May 5, 1983, we have reviewed the Commission Paper on the above subject. The final version of the immediate notification requirement for operating nuclear power reactors (10 CFR 50.72) incorporates many of our earlier comments and is acceptable. Therefore, NRR concurs with the proposed Commission Paper on this subject. Our recent comments on the LER system (Licensee Event Report Rulemaking (10 CFR 50.73), H. R. Denton to C. J. Heltemes, May 20, 1983) which suggest a delay in the implementation of the LER system do not affect our support for the modifications to the immediate notification requirement (10 CFR 50.72) or its implementation.

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosure 7

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAY 19 1983

MEMORANDUM FOR: Richard C. DeYoung, Director
Office of Inspection and Enforcement

FROM: C. J. Heltemes, Jr., Director
Office for Analysis and Evaluation
of Operational Data

SUBJECT: IMMEDIATE NOTIFICATION REQUIREMENTS FOR OPERATING NUCLEAR POWER REACTORS (10 CFR 50.72)

As requested by your memo dated May 5, 1983, we have reviewed the Commission Paper forwarding the final rule 10 CFR 50.72, Immediate Notification Requirements for Operating Nuclear Power Reactors, to the Commission. I concur on this Commission Paper and have no comments.

Karl A. Seyfrit for

C. J. Heltemes, Jr., Director
Office for Analysis and Evaluation
of Operational Data

cc: E. Jordan, IE
E. Weiss, IE

Enclosure 7

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAY 20 1983

MEMORANDUM FOR: Eric Weiss
Office of Inspection and Enforcement

FROM: John Philips, Chief
Rules and Procedures Branch
Division of Rules and Records
Office of Administration

SUBJECT: DRR REVIEW OF FINAL IMMEDIATE NOTIFICATION RULE
(MAY 5, 1983, VERSION)

Attached with required format and suggested style changes indicated are pages of the Federal Register notice and the Regulatory Analysis from the final rule package noted above. Since the style changes supplied add substantially to the clarity of the language used in both documents we ask that you review them carefully.

The revised citation of authority for 10 CFR Part 50 should be inserted in place of the existing citation (which is obsolete) on page 26 of the Federal Register notice.

Although seemingly a minor point, we have replaced the word "his" (on page five of the Regulatory Analysis) with the words "this individual's". This eliminates a potential sexist connotation for the statement involved.

DRR concurs in this version of the final rule with corrections as noted. Please call me on extension 27086 if you have any questions concerning the matters discussed above.

Michael T. Lesar

John Philips, Chief
Rules and Procedures Branch
Division of Rules and Records
Office of Administration

Attachments: As stated

Enclosure 7

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

JUN 21 1983

MEMORANDUM FOR: Richard C. DeYoung, Director
Office of Inspection and Enforcement

FROM: John G. Davis, Director
Office of Nuclear Material Safety
and Safeguards

SUBJECT: IMMEDIATE NOTIFICATION REQUIREMENT FOR OPERATING NUCLEAR POWER REACTORS (10 CFR 50.72)

We have reviewed the draft Commission Paper forwarding the final rule 10 CFR 50.72 concerning immediate notification requirements. We concur on the rule's content, but request a change to the Commission Paper. The paper should clearly indicate that the proposed rule applies to reports of safety-related events while other requirements (73.71(B)(C)) address reports of security-related events. This distinction between safety and security should be made as clear as possible so that confusion may be avoided.

Don Mann for
/John G. Davis, Director
Office of Nuclear Material Safety
and Safeguards

NOTE: Comment resolved by telecon between IE (Jordan) and NMSS (Burnett) 6/2/83

Enclosure 7

NOTE:
Comment #1 resolved in meeting between ELD (Dorian) and IE (Cunninghan & Weiss.)5/27/83
Other comments resolved by telecon between IE(Weiss) and RES(Norberg) 5/31/83.

MAY 31 1983

MEMORANDUM FOR: Richard C. DeYoung, Director
Office of Inspection and Enforcement

FROM: Robert B. Minogue, Director
Office of Nuclear Regulatory Research

SUBJECT: RULE CHANGE ON IMMEDIATE NOTIFICATION REQUIREMENT FOR OPERATING NUCLEAR POWER REACTORS (10 CFR 50.72)

Your memorandum dated May 5, 1983 requested that we review the enclosed Commission paper and accompanying Federal Register notice on the subject rule change. We concur with the rule change subject to satisfactory resolution of the following comments.

1. On pages 11 and 23 of the Federal Register notice, changing the reporting threshold from 25% of allowable limits for radioactive releases to 2 times Part 20 concentrations is discussed. It states that this reporting requirement is intended to capture those events that constitute unplanned or uncontrolled releases of a significant amount of radioactive material to offsite areas. We do not believe you have provided adequate rationale (based on safety considerations) to warrant making such a significant change. It should be noted that only requiring the reporting of unplanned or uncontrolled releases of significant amounts of radioactive material appears to be in violation of the intent of Section 201 of the NRC Authorization Act for Fiscal Year 1980, which states that the NRC "...shall require as a condition [of a license] that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation... the licensee shall immediately so notify the Commission." Better justification is needed to interpret this to mean twice the allowable limits.

2. The statement relating to the Regulatory Flexibility Analysis on page 5 of the Commission paper is applicable to a proposed rule change, not a final rule change.

3. On page 4 of the Federal Register notice the statement is made that, "The various sections of 10 CFR 50 have different phrasing, terminology, and thresholds in the reporting criteria. Ever when no different meaning is intended a change in wording can cause confusion." This statement is unwarranted, unnecessary, adds nothing to the paper and should be deleted.

4. The Federal Register notice and the Commission paper should provide a synopsis of the public comments received, such as the number of utilities, the number of citizens, the number of states, etc.

Enclosure 7

MAY 31 1983

5. The rationale for relaxing Notification Timing (page 9 of the Federal Register notice) should focus on safety considerations, not because the commenters requested the changes.

6. The events or conditions listed on page 29 as "Non-Emergencies" fall into the emergency classifications existing in NUREG 0654 and 10 CFR Part 50, Appendix E, and should not be listed as "Non-Emergencies."

The format of the rule is broken down into a very difficult-to-follow, fine structure; e.g., 50.72(a)(1)(i)(A)(1). We suggest a serious editing effort to improve this.

If you require more specific details on these comments, please contact Mike Jamgochian at 443-5890.

Robert B. Minogue

Robert B. Minogue, Director
Office of Nuclear Regulatory Research

DISTRIBUTION:

RMingogue	JNorberg
DRoss	MJamgochian
KGoller	MJamgochian/rdg
WMorrison	HFSGB/subj
RBernero	HFSGB/rdg
DMatthews	
~~DWeiss~~	

(c)ce. JFW 5/26 KRG orally to be f/c KRG

RES/DFO/HFSB	RES/DFO/HFSB	RES/DFO	RES/DFO/	DD/RES	D/RES
MJamgochian	JNorberg	WMorrison	KGoller	DRoss	RMinogue

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAY 2 3 1983

MEMORANDUM FOR: Edward L. Jordan
Director, Division Emergency Preparedness
and Engineering Response
Office of Inspection and Enforcement

FROM: William J. Olmstead
Director and Chief Counsel, Regulations Division
Office of the Executive Legal Director

SUBJECT: FINAL RULE ON IMMEDIATE NOTIFICATION OF SIGNIFICANT EVENTS AT OPERATING NUCLEAR POWER REACTORS

We have no legal objection to the final rule subject to resolution of the following matters. First, the Commission paper, the Statement of Considerations for the final rule, and the other attachments should be corrected as indicated on the enclosed. Second, the rule itself on pages 27 to 32 should be revised as indicated. Third, a justification should be included for the addition of "offsite response capability" in § 50.72(b)(1)(E) on page 29. Fourth, the various citations should be checked and the paper carefully proofread -- we have found several errors. Fifth, the alternatives considered in the Regulatory Analysis should be spelled out (see page 2) -- at present only the results of the alternatives are described. Sixth, the discussion on page 4 of the Regulatory Analysis about "prompt notification system," "immediate notification requirements," and "emergency preparedness regulations" is confusing; it should be clarified. Seventh, the discussion of the effects of the rule on the public and on public health and safety (see page 6 of the Regulatory Analysis) should be clarified. Finally, Public Affairs should be requested to update the public announcement.

I have requested Tom Dorian to work with Eric Weiss to ensure that these matters are resolved promptly.

for William J. Olmstead
Director and Chief Counsel
Regulations Division
Office of the Executive
Legal Director

NOTE: Comments resolved in meeting between ELD (Dorian) and IE (Weiss) 5/27/83.

Enclosure 7

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 18, 1983

MEMORANDUM FOR: Eric Weiss, IE

FROM: Sue F. Gagner
Public Affairs Officer
Office of Public Affairs

SUBJECT: DRAFT PUBLIC ANNOUNCEMENT

The Office of Public Affairs concurs in the draft public announcement attached to the May 5 version of the draft Commission paper on "Immediate Notification Requirements for Operating Nuclear Power Reactors."

Sue F. Gagner
Public Affairs Officer
Office of Public Affairs

Enclosure 7

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA ST., N.W., SUITE 3100
ATLANTA, GEORGIA 30303

DEC 16 1982

MEMORANDUM FOR: Richard C. DeYoung, Director
Office of Inspection and Enforcement

FROM: James P. O'Reilly, Regional Administrator

SUBJECT: DRAFT FINAL RULE CHANGE TO 10 CFR 50.72

Your December 3, 1982, memorandum requested comments on the subject proposed rule change.

Because of the short turnaround time and the fact that we did not receive the complete text of the proposed new 50.72, we were not able to perform as comprehensive a review as we would have preferred. Notwithstanding, our review, combined with our extensive experiences, raised a number of questions which we believe should be addressed. Recognizing that another opportunity to solve the important emergency reporting dilemma may not be forthcoming in the near future, we urge careful consideration of our comments at this time.

We continue to have serious concern with regard to the impact on the public, the NRC and on licensee resources created by the excessive submittals of immediate non-emergency reports through the emergency center and emergency network. In effect, the NRC has defined such reports as emergencies. As the proposed new rule is written, we do not believe that a proper reduction in such "emergency" reporting will be realized, in spite of the intent of the draft rule. We wish to emphasize that we are not commenting on what reports the NRC needs, only when and how the NRC receives them.

Although there has been minor relaxation of notification requirements in the proposal, particularly in the reporting time frames, retention of the NUREG 0654 criteria for Unusual Events does little to alleviate the serious problems associated with inappropriate emergency reporting thresholds. Even worse, the proposed rule incorporates directly the criteria of NUREG 0654 into 50.72. That is, in our view, conceptually wrong.

NUREG 0654 should be revised to eliminate the emergency category "Unusual Event". Instead, for this category, NUREG 0654 should reference 50.72 events as requiring one hour notification to the NRC for evaluation.

Another concern is the complexity introduced by having the two reporting time frames, one (1) hour and four (4) hours in this rule, which was intended to cover only immediately reportable events. Our evaluation of these time frames reveals that for some of the events a report to the Regional Office during work hours would suffice. We recommend this as the second more permissive time frame. Also, we find that in several cases, a written report would be adequate

CONTACT: F. J. Long
242-5595

Enclosure 7

without prior notification, where only statistical or historical information is involved. We prefer maintaining the one hour time for reports which are necessary on an urgent basis. The general yardstick we should apply is whether or not we will immediately react to that notification.

Your memorandum also requested our reaction to two specific items. With regard to item (6) on page 12, we have no particular problem with it; although the wording could be improved. A threat to plant safety is understandable but we do not follow the threat to personnel safety. We believe the second part should therefore be worded to describe an event or act that prevents, or interferes with, personnel performing safety functions.

With regard to item (6) on page 21, we believe this criterion is vague and could be interpreted to be a catchall. As written, this criterion could restore the reductions in notifications brought about by improvements that were incorporated in other criteria.

Additional specific comments are contained in the enclosure.

James P. O'Reilly

Enclosure:
Additional Comments on Draft Rule
Change 10 CFR 50.72

ENCLOSURE

ADDITIONAL COMMENTS
ON
DRAFT RULE CHANGE TO 10 CFR 50.72

1. Page 1 - clarity: We do not believe that by simply incorporating the NUREG -0654 criteria in 50.72 enhances public safety or improves the clarity or the legal basis of the requirements. A thorough review of 0654 criteria is neceaary. The NRC rule (50.72) should be the basic requirement which would be factored into the NUREG document to satisfy emergency needs.

2. Page 2 - Report Timing: We believe 50.72 should be limited to emergency notification requirements, which would require reporting to NRC within the hour. Any acceptable time frame greater than one hour would not constitute an emergency situation, and therefore need not be in 50.72.

3. Page 4 - Table: We find the table to be somewhat confusing.

4. Page 5 - Criterion (1): The scope has changed significantly by omission of "immediate." This would include essentially all LCO conditions without regard to action statements of lengthy duration which may precede initiating shutdown. We also note the use of the word "prompt" which by usage is within 24 hours while the word "immediate" means within one hour.

5. Page 6 - 50.72(b)(2)(iv): The paragraph should be changed to a specific coolant dose equivalent I-131 value rather than stating that a report is required if T.S. are exceeded. At least one plant in Region II (e.g. Turkey Point) has no T.S. limit on iodine spikes. PWRs with fuel element defects can experience I-131 spikes greater than the T.S. limits following SCRAMS. This immediate notification threshold should be set such that, if exceeded, it is indicative of a situation which warrants immediate action.

6. Page 6 - Criterion (2): Item (i) - how about conditions that are governed? Recommend delete this item. Item (iii) - Is this value reasonable? It seems too small got accumulative or single measurement.

7. Page 7 - Criterion (2)(iv): Recommend this be deleted. It appears to be covered by the activity release criterion.

8. Page 7 - Criterion (3): Clarify to reflect events that interfere with site personnel performing duties...

9. Page 10 - Criterion (4): We do not believe this need be a one hour report. Recommend deletion from 50.72(b) and consider placing in 50.73.

10. Page 11 - Criterion (5): We believe that criterion must define what a major loss is. The Safety Parameter Display System is not a required system, why must its loss be immediately reportable?

11. Page 12 - Criterion (b): The example events are too general and need to be more specifically described. We do not believe, e.g., that all "fires" need be immediately reportable; likewise "strikes" should be described as those consisting of unanticipated walkouts.

12. Page 14 - Criterion (1): We believe this type report could be delayed to the next work day and reported to the regional offices. The criterion is also too general in that many things may be found that fit, but have no urgency. Would the reportability be the same if the plant were in extended shutdown? Suppose the head is off the vessel etc.?

13. Page 15 - Criterion (2): We believe it is necessary to report failure of ESF to actuate, not the actuation.

14. Page 16 - Criterion (3): Clarify to specify events found while operating, (or) when the function was required. We also believe the lead-in should include components as well as structures or systems.

    We interpret this criterion to mean the loss of an entire system, not the loss of one train of a redundant system. This should be clearly defined.

15. Page 18 - Criterion (4): We believe this should be a one hour report.

    50.72(c)(4)(i): The reporting level for unplanned releases still appears to be too low. The way it's written we're requiring immediate notification for unplanned releases that could result in offsite doses (not likely to be received by any specific individual) of as high as 0.14 mrem whole body equivalent. This threshold should be raised to at least approximately 0.5 mrem (7X Technical Specification averaged over 1 hour).

    50.72(c)(4)(i-iii): The criterion establishes reporting requirements for release of noble gases in air and radioactivity, in general, in liquids. However, the paragraph does not include a reporting requirement for exceeding the Technical Specification limit for particulate and iodine release. A section (iv) should be added which requires a report for release which exceeds the Technical Specification limit particulate radioactivity (with greater than an eight day half-life) and iodine releases.

    (4)(iii) The paragraph does not define "receiving water." This could be interpreted as the unrestricted area of a river or lake, or the discharge canal where most plants release liquid radioactive waste. The discharge canal is considered within the restricted area by most utilities. This should read "liquid releases that exceed two times the limiting combined MPC...to an unrestricted area...

16. Page 20 - Criterion (5): The basis is clear but the rule is not. Use the first line of the basis, i.e., "an onsite fatality or transport of a contaminated...."

17. Page 21 - Criterion (6): Recommend delete. These need only be reported to regional offices during regular work hours.

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA ST., N.W., SUITE 3100
ATLANTA, GEORGIA 30303

JAN 25 1983

MEMORANDUM FOR: Richard C. DeYoung, Director, Office of Inspection and Enforcement

Carlyle Michelson, Director, Office for Analysis and Evaluation of Operational Data

FROM: James P. O'Reilly, Regional Administrator

SUBJECT: IMMEDIATE NOTIFICATION REQUIREMENTS FOR OPERATING NUCLEAR REACTORS (10 CFR 50.72) AND THE LICENSEE EVENT REPORT (LER) SYSTEM (10 CFR 50.73)

We have reviewed the proposed final rules 50.72 and 50.73 as requested in your memorandum of December 28, 1982. Although we agree that improvements in overall reporting requirements and some reduction in the burden on licensees can be realized, we believe the proposed rule changes do not go far enough to significantly change our emergency reporting system. Most importantly, the existing system is causing unnecessary public anxiety, sometimes on a national level. The emergency reporting system is also reducing our alertness by requiring nuclear plant operators to "cry wolf" too often. We wish to emphasize that we are not commenting on what reports the NRC needs, but rather only when and how the NRC receives them. Recognizing that another opportunity to solve the important emergency reporting dilemma may not be forthcoming in the near future, we urge careful consideration of our comments at this time.

Our major and serious concerns relate to the impacts on the public, the NRC, and licensee resources caused by the excessive submittals of immediate nonemergency notifications through the emergency center and emergency network. The NRC has defined such events as emergencies. There are many examples of nonemergencies being legally classified and reported as emergencies. As we know, such events have resulted in extensive news media coverage and significant public concern.

We have several additional general comments on the overall proposed final rulemaking on 50.72 and 50.73 and the associated rule changes:

1. Rule 50.72 implies it is applicable to <u>all</u> operating reactors. We believe the title should be revised to refer to operating <u>power</u> reactors. The text likewise should specifically refer to operating power reactors.

CONTACT: F. Long
242-5505

2. Rule 50.72 is essentially an emergency (immediate) reporting rule. The word "immediate" has traditionally been defined to mean "as soon as possible and in all cases within one hour". Furthermore, this rule applies to reports which are to be made over the Emergency Notification System (ENS) network. However, the proposed final rule, 50.72 and the associated Part 20 changes dilute the meaning of "emergency". This is due to several things: the inclusion of four (4) hour and twenty-four (24) hour reports; requiring immediate reporting of any initiation of plant shut down which may be prolonged (such as in LCO action statements); and requiring reporting of degraded conditions found while shut down.

   We strongly recommend that events which do not warrant one hour reports be removed from the 50.72 rule. We believe the proper alternative to ENS reporting for both four hour and twenty-four hour reports would be to require reporting to the regions during the regular work days with off-hour reports permitted to be reported at the beginning of the next regular work day. If NRC decides some reports classified as four or twenty-four hour reports should be reported on the ENS network, then we would recommend that they be classified as "immediate" or one hour reports.

   We have provided specific comments in the enclosure regarding the transfer of several immediate notification criteria to the 50.73 LER system. A corollary comment developped further in the enclosure is that we do not believe the emergency center should be the twenty-four hour answering service--noting that most of the reports initiate in the control rooms of operating power reactors with resultant time consuming notifications and diversion of resources.

3. We find 50.72(a) and the footnote reference to NUREG-0654 confusing with regard to Unusual Events. It should be made crystal clear that the criteria of 50.72(b) replace the criteria of NUREG-0654 for "Unusual Events". The Unusual Event classification should then be removed from the Emergency classes in NUREG-0654--leaving three emergency classifications.

4. We believe the proposed changes to Parts 20 and 73 will unnecessarily complicate those reporting requirements. It is our recommendation that events which require immediate reporting should be reported on the ENS under 50.72. All other reports should be covered by 50.73.

5. The reporting system should contain a classification that requires Regional notification within twenty-four hours, or the next work day. This recommendation relates to other comments made in this response to your request.

To address your specific requests regarding our review, we have the following general comments:

First, we believe the proposed rules more than adequately address our immediate notification needs with regard to operational safety information. We have considerably less concern for the scope and content of the written report

requirements of 50.73 than 50.72, in view of the extended time permitted for submittal. With regard to the LER rule and the plight of the NPRDS, we agree with your proposed adoption of Alternative No. 3. We believe every effort should be made to allow INPO and the industry sufficient time to work out these problems. We desire to see a very orderly approach to handling NPRDS-type information.

Additional specific and editorial comments are contained in the enclosure. We urge your serious consideration of our general and specific comments which we believe will do much to remedy the serious problems associated with event reporting. We will, of course, be happy to discuss our comments with you and assist in any way we can should you desire.

James P. O'Reilly

Enclosure:
Comments on Proposed Rule Changes,
Specific and Editorial

cc w/encl:
V. Stello, DEDROGR
Regional Administrators

JAN 25 1983

Enclosure

Comments on Proposed Rule Changes
Specific and Editorial

The following are Region II comments listed by corresponding Enclosure numbers identified in the joint memorandum from DeYoung and Michelson to the Regional Administrators dated December 28, 1982:

A. Comments on Enclosure 1 - 50.73: The Licensee Event Report (LER) System

1. Page 2, first paragraph - On lines 6 and 7, put "proposed" before requirements. Second paragraph, line 3 - Change "classes" to "types".

2. Page 3, first paragraph - Change 3rd sentence to read "... on the grounds that reporting of reliability data should not be ...." Second paragraph, 1st line - Change to "... that the requirements for reporting of operational ...."

3. Page 3, paragraph 4 - In 1st line change "decided" to "announced". In 3rd line change "decided" to "agreed."

4. Page 3, last paragraph - the third deficiency is not clear. This should be restated, or better, omitted as it sounds facetious.

5. Page 4, first paragraph - Change last sentence to "However, the Commission will continue to have ... and by assuring availability of the ....". Last paragraph - Delete "to" in line 6.

6. Page 4, last paragraph - Foot note (2) was added regarding the IOER system with reference to SECY 81-492. The IOER system was mentioned on page 3 the first time, with reference to SECY 80-507. Combine the two SECY's on page 3 and delete footnote (2) on page 4.

7. Page 6 - There are 30 letters characterized. What was the essence of the remaining 17 letters? We disagree with the conclusion in view of the comments received and our experiences. If necessary, it would be better to say, "the impact will be about the same, if not somewhat reduced."

8. Page 6, last paragraph, and top page 7 - The conclusions need to be reconsidered. Rewording is suggested to eliminate the overly positive conclusion.

9. Page 7, last paragraph - Change "not warranted" to "should not be necessary."

10. Page 8, 3rd paragraph - What about the burden of a "summary."

11. Page 9, 3rd paragraph, 2nd line - Change to "particularly". In line 7, delete "reduction in the reporting of."

12. Page 9, last paragraph - Delete 50.55(e) which is not applicable to operating plants.

13. Page 11, last paragraph - We agree with the licensee comments. This looks like an attempt to impose a separate NPRDS via 50.73. We should let INPO work this out with licensees and NRC review the results as appropriate. To do otherwise would be to back off on commitments already made, without good cause.

14. Page 12, second paragraph - We could hardly expect licensees to have two identifier systems in use. The EIIs are not widely used by licensees. Also, we question the last sentence which implies a simple inexpensive requirement. We should not jump the gun and force NPRDS to change. Why not let this be up to NPRDS and INPO. Identifiers will be worked out in time with standardization.

15. Page 15, paragraph 50.73(a)(4) - Change last sentence to read "... reported unless required by one or more of.... in this section." Last paragraph - We do not believe an LER should be required for each scram. Important scrams would come under other reporting criteria. It is noted that all scrams are reviewed by NRC staff members.

16. Page 17, second paragraph - Not consistent with paragraph 2 page 16 regarding ESF actuations that need not be reported. Change the example to read "procedure or evolution."

17. Page 23, last paragraph - Failure to perform surveillance could be indicative of management control problem and should be reported by the 50.73 LER system.

18. Page 24, 2nd paragraph - Spelling error; 3rd paragraph, delete extraneous phrase at end; last paragraph should read "... degradation of the principal ...."

19. Page 38 - Error in numbering and format (7)(i) and (ii). In (ii) - Change to read "... at the point of release from the facility into an unrestricted area for all ...."

20. Page 43 - (4) and (5) are duplicates of page 42, (4) and (5).

21. Page 43, paragraph (c), line 4 - Delete all of sentence after "understanding".

22. Page 44 - Does this mean "blanket or portions" of 50.73?

B. <u>Comments on Enclosure 2 - 50.72: Immediate Notification Requirements for Operating Nuclear Reactors</u>

1. Page 1 - The title should be "...Nuclear <u>Power</u> Reactors."

2. Page 1, line 6 - Should be (replace).

3. Page 3, last paragraph - The statement says that NUREG-0654 discusses situations in previous paragraph. NUREG-0654 does not discuss notification of the NRC, only state and local personnel.

4. Page 4, first paragraph - The numbers of examples should be 17, 20, 18 and 7 for the four classes.

5. Page 4, second paragraph - Should read "as stated on page 1-3 of Appendix 1:".

6. Page 5, first line - Change (in) to (is).

7. Page 5, second paragraph - Change Revision 1 to Appendix 1; in fourth line change (their) to (this).

8. Page 6, last paragraph, line 6 - Change (this) to (thereby); line 7, change to read (...also replaces).

9. Page 8, second paragraph - We do not agree that a four hour report is necessary nor do we agree that reactor scrams should be typified as emergencies. It must be recognized that reviewing scrams individually and collectively are normal NRC functions. It is not an emergency unless other events occur that would make it an emergency. We disagree with the implication that the reports submitted on the ENS are the only reports evaluated. ENS reporting should not be directly associated with importance - it should be associated with urgency.

10. Page 8, last paragraph - We disagree with the apparent staff conclusion. All 50.72 notifications require use of the ENS which is an emergency system. Calls received on the ENS should therefore be assumed to be in accordance with 50.72. This would be acceptable as an understanding but it need not be stated in the rule. NRC identifies the ENS as an emergency network. Therefore all calls should be handled as such. The phrase at the end of this paragraph "just a courtesy call" is facetious and should be deleted.

11. Page 9, Notification Timing, third line - Change of to and. Line five, change to "Within" one hour. We also believe this should be transferred to 50.73 since it would not be an emergency if a four hour report is acceptable.

12. Page 9, Immediate Shutdown - Although Immediate Shutdown is not used in tech specs, the term is not difficult to understand. It does imply an emergency situation. The proposed new wording in the final rule, in which we disagree eliminates emergencies as the primary basis for reporting.

13. Page 10, first paragraph - Many shutdowns are initiated on extended LCO action statements. Most of these initiated shutdowns are terminated shortly after being initiated. It cannot be a legitimate emergency if immediate shutdown is not required.

14. Page 10, last paragraph - Line 4 should read "assessment or ..." . Additionally, we are not convinced that this requirement constitutes an improvement in 50.72. We foresee problems with licensees understanding the emergency intent.

15. Page 11, first paragraph - Change first line to read "...previously required to be reported and which had little safety significance, will no longer require reporting." Line seven, delete "individual."

16. Page 11, second paragraph - Change lines four and five to read "... reporting criteria in the new ...." This should provide ease of interpretation ...."

17. Page 12, first paragraph - The events are in the wrong order. As previously stated, we do not agree with adding the fifth event type (Significant Event). Since these are four hour reports, they do not fall under the heading "Immediate Notification" which means one hour. We believe these events should be reported under 50.73 and in the normal manner. Correct line seven. The word "promptly" in the last line of this paragraph should be changed to "as soon as possible." The word "prompt" has always been used for 24 hour reports. (The use of different words throughout all enclosures creates a problem in understanding. A more complete and improved "Definition Section is necessary.)

18. Page 12, third paragraph - Change 50.72(a) to read "... there is an initiation of any one of the following ...."

19. Page 13, second paragraph - We maintain this is much too broad and will result in numerous unnecessary reports of a nonemergency type. Also in third line, use of word "prompt" is contrary to "immediate" in the heading. We recommend "immediate shutdown" rather than "initiation" of shutdown. Once again, as written, we are asking for nonemergency information to be reported as emergency information.

20. Page 13, third paragraph - We do not agree that "immediate shutdown" is vague and unfamiliar. Good, expressive terms should be retained and if necessary, defined in a "Definition Section."

21. Page 13, fifth paragraph - Should be "requires."

22. Page 14, beginning on line 10 - The examples are reversed. Reportable examples should be first and exceptions to requirements at the end. We also question why the void discussion is of concern since the need for unorthodox cooling would be reportable in itself. Line 17, delete "significantly." BK

23. Page 15, first paragraph, first line - Change to "... problems concerning single minor components." The words (unrelated, safety related) in line five are awkward. If they are safety-related, they cannot be unrelated. Change last sentence in this paragraph to read "... or if they compromise plant safety."

24. Page 15, second paragraph - Which is reportable, material problems or system degradation? Suggest change to read "... abnormal degradation of ...: caused by material problems (e.g., ...)"

25. Page 15, paragraph (b) - Change to read "Cracks or breaks in the RCS pressure boundary piping ... primary coolant system (steam generators...)". (Note that all cracks and breaks have safety relevance; therefore, the phrase should be deleted. We believe (b) and (c) are essentially the same - they should be combined for simplicity.)

26. Page 15, paragraph (c) - Only if found during operations. Paragraph (e) - delete "test or " (Normal reporting would obviously take place.)

27. Page 16, paragraph (f) - Do not agree except during operation. A report per 50.73 is certainly necessary and appropriate. Also note error in f (IV) location.

28. Page 16, paragraph 50.72(b)(3) - The intent should be that events which pose a threat must be reported. Events that posed a threat should be reported in the normal manner. For example, the last sentence on the page refers to "events where there is an actual threat," rather than was a threat. We agree with this emergency reporting philosophy.

29. Page 17, last paragraph, third line - Change to to for.

30. Page 18, second paragraph, line 2 - Change could to would. Third paragraph, line four - "caused ECCS actuation." Third paragraph, line five - Change of to or.

31. Page 18, paragraph 50.72(b)(5) - What is actually reportable, an event or the loss of ...? If a blown fuse caused the loss, is the blown fuse reportable? We must take the time to clearly articulate some examples of reportable emergencies that fit stated NRC criteria that are not clear. This is an important general comment.

32. Page 19, paragraph 50.72(b)(6) - Delete "gaseous" so that liquid or particulate releases will also be included.

33. Page 20, paragraph 50.72(c) - As previously argued, a four hour report is contrary to the subject of 50.72 which is immediate reporting (within one hour). We maintain that there is little to be gained, and a lot to be lost, by offering this solution as a compromise. If these events are truly classed as emergencies, one hour reports should be required. We believe this is an unnecessary complication of the reporting requirements and licensees will not make a distinction between the (b) and (c) reports.

34. Page 20, paragraph 50.72(c)(1) - We believe this should be covered under 50.73 only. There are numerous important conditions that could be found at shutdown which would have no immediate or generic safety significance. The requirement is extremely broad, even for a four hour report. (It is important to note that failure to report in these types of situations

constitute Level III violations and could result in civil penalties without regard to actual safety importance.)

35. Page 21, second paragraph, line 3 - Shutdown should be two words; line four - change a to an; line five - shutdown should be two words; line eight - should be "types of reports"; line 12 - shutdown should be two words. We agree this should be reported but only per 50.73. Note that the proposed rule says "actuation" of ESF but not "failure to actuate". The latter is more important in our opinion, but as written, is not clearly reportable. We recommend this approach be changed so that only "failure to ..." is reportable on the ENS.

36. Page 22, second paragraph - as written this paragraph may not be an accurate analysis of the proposed rule (see 35 above). (This is an editorial comment.)

37. Page 23, paragraph 50.72(c)(3) - We believe this should be a one hour report.

38. Page 25, first paragraph - first line "receiving water" is not the best term. Unrestricted area is preferred. Second line - "radionuclides". Second paragraph, line three - Delete "as". Also, we believe this should be a 50.73 report only.

39. Page 25, fourth paragraph - Change to read "... those events that constitute unplanned or uncontrolled releases of significant amounts of .... Unplanned releases should occur infrequently. However, when they do occur, it is an indication that at least moderate ...."

40. Page 25, paragraph 50.72(c)(5) - Change to read "any event involving transport of a radioactively contaminated individual offsite." (It should not matter where he is taken offsite.) As written, this should be eliminated from 50.72. A better definition, without the word "any" would be appropriate for a one hour notification.

41. Page 26, paragraph 50.72(c)(6) - Change site workers to onsite personnel; change "agencies has been made" to "agencies has been or will be made"; should be "inadvertent" release of radioactively contaminated materials. The statement on lines five through seven is not correct when referring to release of contaminated materials. This definitely would warrant NRC attention.

42. Page 26, paragraph 50.72(d)(1) - First sentence, change "promptly" to "as soon as possible." The word "promptly" has been interpreted to mean 24 hours. Also delete "may require" since this would include everything.

43. Page 27, paragraph 50.72(d)(2) - Change "promptly" as in 42 above.

44. Page 27, paragraph 50.72(d)(3) - This should actually be the first item.

45. Page 27, paragraph 3, third part - Change to read, "This paragraph provides the NRC with timely notification when an event becomes more serious or when new information further clarified an event." (There is no point in having two subparagraphs, the last part of (3) does not make sense with regard to telecom problems.)

C. Comments on Enclosure 3 - Regulatory Analysis 50.73

Discuss remaining 17 comments also.

D. Comments on Enclosure 4 - Regulatory Analysis

1. Part 1, Background - A major problem not listed is excessive reporting required for nonemergency events and reporting via the ENS.

   The third problem listed was called the most serious. We fully agree; however; we believe the problem is not likely to be resolved unless we go much further than the proposed rule changes. We believe all "emergency" items should be removed from Parts 20 and 73 and included in 50.72.

2. Page 3, second paragraph - It is stated that the two listed alternatives were considered. Obviously another was considered since neither of these two were adopted as stated. Extra words could solve this problem.

3. Page 4, last paragraph - Change last sentence to read, "...pose no serious ... or generate public fear ...."

4. Page 5, first paragraph - Delete "important" in first line; second line, change "significant events" to "important events"; fourth line, delete "possible".

5. Page 5, second paragraph, second line - Delete "effective"; third line, change to read "... there have been costs associated ...." Change last sentence to read "... lines to all existing operating nuclear power reactor and fuel facilities."

6. Page 5, last paragraph - Delete the first "additional".

7. Page 6, first paragraph (Public) - Something is missing since this statement is not logical. Additional information should be provided or the conclusion should be that the changes may avoid unnecessary state and local government reactions to nonemergencies and related concerns by the public in general.

8. Page 6, second paragraph - We question the validity of the statement. It is too positive as written.

9. Page 6, third paragraph - Same comment as No. 8 above. Also we noted use of "significant improvement" in this paragraph and "substantial improvement" in the subsequent paragraph. Delete both adjectives.

10. Page 7, second paragraph - Change second sentence to read, "... reorganization of the criteria, ... criteria are included, and improvements are made ...."

11. Page 7, third paragraph - What does this mean? We suggest deletion.

12. Page 7, fourth paragraph - Change first sentence to read "... final rules require licensees to notify the NRC ... of an occurrence." Second sentence change to "... rule requires reporting ...."

13. Page 8 - Change this paragraph to read: "50.72: (1) will not ...; (2) will have ...; (3) will reduce the reporting ...; (4) will increase ....

Therefore, the staff concludes that the revised 10 CFR 50.72 rule be promulgated to become effective ....

E. Comments on Enclosure 5 - Various Additional Rule Changes

1. Part 20

a. Page 1, paragraph 1.(a)(1) - Change to "Licensees having installed ...."

Paragraph (a) (2) - "Administrator of ...."

b. Page 1, paragraph 2(b), second line - Change "he learns" to "learning".

c. Page 1, paragraph 3(e), second and third sentences - Change "incidents" to "events"; paragraph (a) should be referenced, not (b) in second sentence. We also find this sentence to mean licensees must report per both, as written. Reword to clarify which rule is meant by phrase "paragraph (b) of this section".

d. Page 2, paragraph 4(a) - Change "incident" to "event" and "him" to "the licensee". Paragraph 4(a)(2) - Why is this not in 50.72? Paragraph 4(a)(3) and (4) - Why not delete these from the ENS since they are not really needed immediately. For some small licensees, (4) would mean a total destruction of the entire facility.

e. Page 2, paragraph 5 - Same as first part of comment 4 above.

f. Page 3, paragraph (2) - This would have had to be reported much earlier under 50.72. There should be consistency for emergency

reporting that affects the public. Paragraph (3) and (4) Suggest delete, have no use.

g. Page 3, paragraph 6 - Why must these be reported on the ENS if not reportable under 50.72? Why use the emergency network for a 24 hour report? We strongly recommend against using the ENS for nonemergency events. (The philosophy does not clearly come through - this is a general comment.)

h. Page 5, paragraph 9(d) - This is very confusing - should require one or the other, not both. Should be rewritten completely

2. Part 50.36

a. Page 5, paragraph 10 - Reference 50.36(c)(1) is obviously an error as well as (4)(i) and (4)(ii).

b. Page 5, paragraph 11 - It appears that 50.36(c)(5) is in error. It is not clear where the new paragraph actually goes.

3. Part 73.71

a. Page 6, paragraph 12 - Change paragraph (b) to read "... plant or nuclear materials transportation system." Paragraph (b)(2) - Delete "Director of the ". Paragraph (b)(3) - Would not be in accordance with Part 21 or Part 73 if only submitted per 50.73 unless also reported under 50.72. Therefore the statement is not actually correct. The information in 50.73(h) has little relation to transportation and, therefore, is not appropriate. The 50.73 criteria for transportation should be reviewed.

b. Page 7, paragraph 13(c)(1) - Only the one hour reports should be reported on the ENS. (Other reports are still desired.)

c. Page 7, paragraph 13(c)(3) - There are several errors in this paragraph. The written report should be prepared per 50.73(b), not 50.72(b). In the last sentence, 50.73 should be 50.72. Otherwise, a 30 day report per 50.73 would be 25 days late for a 73.71(c) report.