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Cooper Nuclear Station
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USNRC

'98 SEP 23 P12:28

NLS980161
September 21, 1998

OFFICE OF THE
GENERAL COUNSEL
ADJUDICATION STAFF

Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, DC 20055-0001

DOCKET NUMBER
PROPOSED RULE PR 50
(63FR39522)

ATTN: Rulemaking and Adjudication Staff

Gentlemen:

Subject: Comments on Proposed Rulemaking for 10 CFR 50.72 and 50.73, Reporting Requirements
Cooper Nuclear Station, NRC Docket 50-298, DPR-46

Reference: 1. 63 Federal Register 39522, dated July 23, 1998, Advance Notice of Proposed Rulemaking, "Reporting Requirements for Nuclear Power Reactors"

The Nebraska Public Power District (District) hereby submits comments on the proposed rulemaking in Reference 1 for NRC consideration in preparing the final rulemaking package.

The primary purpose of reporting under 10 CFR 50.72 is to provide the NRC prompt notification of significant events where immediate NRC action may be required to protect the health and safety of the public or may need to respond to a heightened public concern. Reporting events under Section 50.73 provides the NRC with information used to identify precursors or to identify and resolve threats to their primary purpose of protecting public health and safety. These types of reports may also be of generic interest to other licensees in preventing similar events at their stations.

Current reporting requirements have resulted in many reports that are of minimal, if any, safety significance. The District believes that overall, the proposed rulemaking in Reference 1 will lessen the burden on licensee and staff resources by eliminating requirements to report events of little safety significance. As a result, resources will be appropriately focused on those events and occurrences which are safety significant.

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Should you have any questions concerning this matter, please contact me.

Sincerely,

/BLH/signed copy in file/09-21-98 *

Bradford L. Houston
Manager, Nuclear Licensing and Safety

/lrd
Attachment

*Comment received via the rulemaking website on 09/21/98

**NEBRASKA PUBLIC POWER DISTRICT
COMMENTS ON PROPOSED RULEMAKING
10 CFR 50.72 AND 50.73**

Following are the District's specific comments on the Advance Notice of Proposed Rulemaking (ANPR) for Reporting Requirements for Nuclear Power Reactors.

1. ANPR (1), Initial Reporting Requirements

The District agrees with the change requiring initial reporting times for some reports to be extended to eight (8) hours based on the importance to risk. As such, the District recommends extending the required time to submit a Licensee Event Report (LER) in 10 CFR 50.73(a)(1) from 30 to 60 days:

"The holder of an operating license for a nuclear power plant (licensee) shall submit a Licensee Event Report (LER) for any event of the type described in this paragraph within 60 days after the discovery of the event."

This is due in large part to the comprehensive root cause evaluations which the District and many other utilities require to be performed in support of preparing LERs, as well as including probabilistic risk assessment (PSA) insights when appropriate. The District sees little benefit in submitting what in some cases is no more than a summary of the event and progress made on evaluating the root cause simply to meet the 30 day clock. This "incomplete" submittal is usually followed by a supplement containing the cause evaluation and corrective action approach in enough detail to meet the NRC's needs of identifying and resolving precursors. However, under the current regulation, the District makes every effort to complete the cause evaluation, prescribe corrective actions, and submit the LER within 30 days. Given the relaxation from 4 hour to 8 hour initial reporting as proposed in Reference 1, which applies more directly to issues of greater safety significance, granting an additional 30 days to complete LERs would relieve an existing, unnecessary burden with no compromise to the reporting of safety significant events. This is also consistent with the enforcement guidance in Enforcement Guidance Memorandum (EGM) 98-06, especially in terms of allowing licensees to perform thorough cause evaluations, comprehensively assess contributing factors, and develop effective corrective actions.

2. ANPR (1)(f), Initial Reporting Times (Non-emergency Events), Unplanned Reactor Protection System (RPS) Actuation and Unplanned Engineered Safety Features (ESF) actuation other than RPS

The District recommends that fix the 8-hour reporting requirement, 50.72(b)(2)(ii) be revised to the following:

"Any event or condition that results in a manual or automatic action of any engineered safety feature (ESF), including actuation of the reactor protection system (RPS) from a critical condition, in response to actual plant conditions that warrant ESF/RPS actuation, except when..."

The LER requirement, 50.73(a)(2)(iv), should be revised to the following:

"Any event or condition that resulted in manual or automatic actuation of any engineered safety feature (ESF) including the reactor protection system (RPS), in response to actual plant conditions that warrant ESF/RPS actuation, except when..."

This language would clearly capture the intent of the ANPR and ensure that the 8-hour and LER requirements of 50.72 and 50.73, respectively, are consistent.

3. ANPR (2), Clarification Of Requirement for Reporting an Event or Condition That Could Prevent Fulfillment of Safety Function
 - a) The proposed language in both 50.27(b)(2)(iii) and 50.73(a)(2)(v), "or in combination with other existing condition(s)," does not further clarify the intent of the rule and could actually be more confusing, thus increasing the burden. The District contends that the existing language, "Licensees shall report any event or condition that alone could have prevented the fulfillment of the safety function..." is sufficiently clear.

As stated in NUREG 1022 Revision 1, the intent of the existing criteria is to capture those events where a reasonable expectation exists that there would have been a failure of the safety system to properly complete a safety function, regardless of when the failures were discovered or whether the system was actually called upon to perform its function at the time. In assessing whether the condition could have prevented fulfillment of the safety function, consideration is necessarily given to capture the synergistic effects of the event with existing conditions and determine the impact on the ability of the structure or system to perform its safety function. Thus the District believes it is unnecessary to include "or in combination with other existing condition(s)" in the rule language.

- b) In 50.72(b)(2)(iii), reporting should be limited to those events which are contemporary. Reporting of historical events newly discovered that could have been safety significant at one time but have since been resolved provides a low safety benefit and unnecessarily increases the reporting burden.
- c) Reporting should also be limited to those cases where the loss of the safety function exceeded the time allowed in an associated Technical Specification (TS) action statement. NUREG 1022 states that the events preventing fulfillment of a safety function must be reported regardless of whether an alternate safety system could have been used to perform the safety function. However, if a system can be restored to operability (i.e., the ability to fulfill the safety function is restored) within the time allowed by TS, there is a minimal impact on public health and safety. This is true whether or not system is single train. Thus the question becomes, why are licensees expected to report conditions that are within their license? It seems inconsistent with a risk-informed approach to report temporary losses of a safety function, which are unavailable for less time than allowed by TS.

For the reasons detailed above, the District recommends revising 50.72(b)(2)(iii) to the following language:

"Any current event or presently existing condition that alone could, for a time period exceeding that allowed in the associated Technical Specification action statements, prevent the fulfillment of the safety function of structures or systems that are needed to..."

- d) Under 10 CFR 50.73(a)(2)(v), a "statute of limitations" should apply, in that it should in most cases be a written follow up to the prompt notification of 50.72(b)(2)(iii), rather than an independent reporting criteria. There is no benefit to safety in reporting those historical events which are newly discovered that could have been safety significant at one time but have since been resolved, which occurred more than two years ago. A significant burden exists in determining past operability and searching for historical events; searching back a time period encompassing one fuel cycle would be significant for serving the needs of the NRC and the intent of the reporting rules.

The District recommends revising 50.73(a)(2)(v) to the following language:

"Any event or condition which existed during the previous two years that alone could have, for a time period exceeding that allowed in the associated Technical Specification action statements, prevented the fulfillment of the safety function of"

structures or systems that are needed to..."

4. ANPR (3), Design Issues and ANPR (7), Conditions Outside Coverage of Procedures

It is proposed in the contemplated amendments that there will not be a specific criterion for reporting conditions outside the design basis of the plant, as the those design issues which would result in a loss or partial loss of the capability to perform the safety function would be reported under 50.72(b)(2)(iii) and 50.73(a)(2)(v), and conditions prohibited by TS under 50.73(a)(2)(I)(B). It is also proposed that the requirements to report conditions not covered by the plant's operating and emergency procedures would also be deleted, since other reporting criteria capture the events of safety significance that may fall in this category.

In summary, the NRC intends to be removing the current subparagraphs (b) and © in 50.72(b)(1)(ii) and 50.73(a)(2)(ii). The remaining requirement would then be to report events or conditions that result (or resulted in) the condition of the plant, including its principal safety barriers, being seriously degraded or in an unanalyzed condition that significantly compromises plant safety. However, the requirements specified in 50.72(b)(1) when combined with Technical Specification requirements adequately covers events or conditions of this nature for reporting purposes. The existence of redundant reporting requirements will continue to add unnecessary burden on licensees and the NRC staff, therefore it is recommended that 50.72(b)(1)(ii) and 50.73(a)(2)(ii) be deleted.

5. ANPR (6), Missed or Late Equipment Surveillance Tests

The District agrees that the contemplated amendments which relax the requirements for reporting missed or late equipment surveillance tests are appropriate. However, this does not address 50.73(a)(2)(i) which is particularly burdensome to licensees through its questionable interpretation on historical events.

The District recommends that 50.73(a)(2)(i) be clarified to say:

"The licensee shall report any operation or condition prohibited by the plant's Technical Specifications occurring within the previous two years."

Although the District agrees that any violation of Technical Specifications is a serious matter warranting NRC notification, trying to assess past risk and past operability beyond one cycle of operation is not consistent with a risk informed approach, particularly in cases where the event has occurred and was previously corrected. For example, if a fire door is found blocked open without a fire watch and research indicates that it occurred from a discernible event seven (7) days ago, that would be reportable. However, to embark upon a

research project to determine if the issue caused a hitherto unknown "past inoperability," when the current operability is unaffected, creates a massive drain on resources with little safety benefit. In assessing risk significance, the focus should not be on whether public health and safety was previously at increased risk as a result of a currently identified condition, especially if the outcome is known; i.e., no adverse effects resulted. Rather, the focus should be on how the risk to public health and safety would have been affected *had this condition not been identified*, how current operability is affected, and how future functionality would likely have been affected had corrective action not been initiated.

6. ANPR (8), Events Resulting in Actuation of ESF

The District has two recommendations with respect to the contemplated amendments to the reporting rules for events resulting in actuation of ESF:

- a) Specific listing of the systems which must be reported as an ESF system is inappropriate and should *not* be codified, since the design and licensing basis of each plant is unique and as such there are variations of the risk significance of particular systems from plant to plant. Each facility's Updated Safety Analysis Report identifies the systems designated as ESF; for example, Reactor Core Isolation Cooling (RCIC) is not identified as an ESF system at Cooper Nuclear Station (CNS), however under the proposed rule language, CNS would be required to report an actuation of this system as though it were an ESF. Therefore, the language utilizing the term "ESF" should still remain as it is in the current regulation, 50.72(b)(2)(ii).
- b) It appears that the criteria in determining the need for an LER in cases where unintentional manual ESF actuations and invalid automatic actuations could actually result in more LERs than is required under the current rule. The District recommends that ESF actuations caused from unintentional or manual initiation or invalid automatic actuations should be reportable only if they resulted in an operational transient. For example, an unplanned manual or invalid automatic isolation of Primary Containment during a refueling outage (or such other time when Primary Containment is not required to be operable) would seem to be of little risk significance.

7. ANPR (10), Human Performance

The District is concerned with the interpretation issues that could arise from the proposed "check the box" type approach for human performance issues. It is unclear that this would reduce the reporting burden as the District would be compelled to continue explaining human performance issues in the narrative and thus the NRC Staff would still have to review the narrative to understand the context of the human performance evaluation and the

critical role it often plays in events. Therefore, the District would recommend that the industry and the NRC agree upon a human performance evaluation methodology to ensure consistent application of the "check the box" approach. Until such time that the NRC Staff and licensees agree on methodologies, it would be appropriate to continue the reporting of human performance in the narrative section.

8. ANPR (11), LER Form and ANPR (12), Electronic Reporting

The District agrees that the implementation of a new LER form and electronic reporting would be consistent with the proposed changes, however would recommend that the NRC consider any necessary training and guidance for licensees to utilize a new process.

9. ANPR (13), Enforcement

The enforcement policy and its application must be given parallel consideration with the contemplated amendments to reporting requirements such that there is consistency and also to solidify portions of the guidance in FGM 98-06 relevant to I ERs.

10. Other

NUREG 1022, Revision 1, and its associated workshops, have provided very valuable to the District in applying the reporting rules. As such, it is essential that the guidance contained therein also be revised consistent with contemplated amendments. The District is in full support of NRC Staff and licensee workshops to develop a finished guidance document that can continue to be used in implementing Sections 50.72 and 50.73.