

**POLICY ISSUE**  
**NOTATION VOTE**

**RESPONSE SHEET**

**TO:** Annette Vietti-Cook, Secretary  
**FROM:** Commissioner Baran  
**SUBJECT:** SECY-20-0109: Petition for Rulemaking and Rulemaking Plan on Immediate Notification Requirements for Nonemergency Events

Approved  Disapproved  Abstain  Not Participating

**COMMENTS:** Below  Attached  None

**Entered in STARS**

Yes

No

\_\_\_\_\_  
**Signature**

7/23/21

\_\_\_\_\_  
**Date**

## **Commissioner Baran’s Comments on SECY-20-0109, “Petition for Rulemaking and Rulemaking Plan on Immediate Notification Requirements for Nonemergency Events”**

NRC regulations in § 50.72 require nuclear power plant licensees to notify the NRC Headquarters Operations Center within a specified period of time (1, 4, or 8 hours) if particular “nonemergency events” occur. This typically involves a telephone call to the Operations Center. The Nuclear Energy Institute (NEI) filed a petition for rulemaking seeking to eliminate all nonemergency event notification requirements under § 50.72. NEI contends that NRC’s onsite resident inspectors could gather this information in lieu of licensees providing notifications to the Operations Center.

The NRC staff recommends initiating a rulemaking to evaluate the nonemergency reporting requirements of § 50.72 with the stated goal of reducing licensee reporting costs. This “could include options such as eliminating or modifying some or all reporting requirements.”<sup>1</sup> According to the staff, “the amendments under consideration would relax existing requirements.”<sup>2</sup>

I disagree that the agency should focus its resources on reducing notification requirements for nonemergency events. And, despite the paper’s tepid recommendation, it is not clear that the NRC staff experts think it is a good idea either. In fact, the NRC staff makes several compelling arguments against the rulemaking proposal.

The types of events triggering notification requirements under § 50.72(b) are plainly ones that NRC needs to know about in order to perform effective oversight of nuclear power plants. These events include: deviations from the plant’s technical specifications, shutdowns required by technical specifications, actuation of the emergency core cooling system, actuation of the reactor protection system, the condition of the plant being “seriously degraded,” and the transport of a radioactively contaminated person to an offsite medical facility for treatment. In the paper, the staff states: “eliminating some nonemergency event notification requirements could unacceptably degrade the NRC’s ability to maintain situational awareness of significant events at nuclear power plants and reduce the visibility and openness of these events to public stakeholders.”<sup>3</sup>

The NRC staff also explains that voluntary licensee reporting of these kinds of events to resident inspectors is not a viable alternative to the current reporting requirements. According to the staff:

If the NRC relies on voluntary practices alone to maintain awareness of the nonemergency events listed in § 50.72(b), then there is an increased risk of loss of situational awareness and the ability to make timely decisions with adequate information. The resident inspectors may receive voluntary reports from licensees but are not available at all times and are not expected to perform the communication duties assumed by the HOC. Headquarters Operations Officers (HOOs) are always on call and have special knowledge and communication tools to enable accurate and efficient collection and dissemination of information for all types of facilities. In addition, every call to the HOO is recorded to ensure accuracy of information. Adding this burden to the resident inspectors could impact their ability to provide adequate oversight of the

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<sup>1</sup> SECY-20-0109 at 2.

<sup>2</sup> *Id.* at 9.

<sup>3</sup> *Id.* at 2.

nonemergency events and decrease the speed and quality of information sharing within the NRC about nonemergency events. Further, reliance on the Resident Inspectors picking up the reporting requirement undermines the basis for the rule change as it would recognize that the need for the reporting is still necessary, it would simply shift the burden to the NRC, from the licensee.<sup>4</sup>

The staff emphasizes that “communicating these events only to the resident inspector could alter the direct and efficient communication structure via the HOO and replace it with an indirect structure that is less efficient at disseminating information within the NRC.”<sup>5</sup> As a result, if the agency were to rely “solely on licensees’ voluntary calls to the resident inspectors, then the NRC may not be able to take appropriate action in a timely manner.”<sup>6</sup>

Rather than somehow enhancing safety, “[m]embers of the petition review board expressed concerns with shifting the burden for gathering, verifying, and communication information on nonemergency events from licensees to resident inspectors” because this “could both delay and distract NRC staff focus from providing effective oversight.”<sup>7</sup> The staff working group raised other concerns with the proposed rulemaking, including “a decrease in the NRC’s ability to respond efficiently to events, maintain situational awareness, provide proper regulatory oversight, and maintain credibility with the public.”<sup>8</sup>

In response to the argument that the separate 60-day Licensee Event Report requirements of § 50.73 render the requirements of § 50.72 duplicative and unnecessary, the NRC staff states that “even a 30-day reporting requirement for § 50.73 LERs would represent a significant reduction in timeliness for public notification compared to the current § 50.72 notification requirements.”<sup>9</sup> The Licensee Event Report timeframes also are far too slow if NRC needs to activate its response plan, initiate a special inspection, or answer public requests for information in the hours or days after an event.<sup>10</sup>

Ultimately, I agree that “NRC must preserve the ability to maintain situational awareness of significant events at nuclear power plants, and the visibility and openness of the event notifications to public stakeholders.”<sup>11</sup> The staff rightly points out that

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. Notification of these nonemergency events in a timely manner allows the agency to perform an independent assessment of the event and take appropriate action, if necessary.<sup>12</sup>

In light of these concerns, the NRC staff’s recommendation to proceed with this rulemaking is baffling. Given that the paper and accompanying draft *Federal Register* notice

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<sup>4</sup> Draft *Federal Register* Notice at 9-10.

<sup>5</sup> *Id.* at 14.

<sup>6</sup> *Id.* at 13.

<sup>7</sup> SECY-20-0109 at 9-10.

<sup>8</sup> *Id.* at 10.

<sup>9</sup> Draft *Federal Register* Notice at 16.

<sup>10</sup> *Id.* at 17-19.

<sup>11</sup> *Id.* at 8.

<sup>12</sup> *Id.* at 21.

include a long list of strong arguments against the proposed rulemaking and no convincing rebuttal of these arguments, it is unclear how the staff reached the conclusion it did.

For these reasons, the petition for rulemaking should be denied.