

July 9, 1999

FOR: The Commissioners

FROM: William D. Travers /s/
Executive Director for Operations

SUBJECT: PROPOSED PLANS AND SCHEDULES TO MODIFY REPORTING REQUIREMENTS OTHER THAN 10 CFR 50.72 AND 50.73 FOR POWER REACTORS AND MATERIALS LICENSEES

PURPOSE:

The purpose of this paper is to provide the staff's proposed plans regarding modification of reporting requirements other than 10 CFR 50.72 and 50.73 for power reactors and materials licensees.

BACKGROUND:

In SECY-99-022, "Rulemaking to Modify Reporting Requirements for Power Reactors," January 20, 1999, the staff recommended deferring, until the end of calendar year 1999, further consideration of rule changes recently suggested by public comment. In a staff requirements memorandum (SRM) on the same subject, dated March 19, 1999, the Commission disapproved that recommendation. The Commission indicated that while resource constraints may preclude initiating these rulemaking activities in 1999, the staff should provide the Commission with a schedule and a plan of action for revising the reporting rules listed in SECY-99-022. The Commission also indicated that the staff should include the basis for significantly delaying any of these rulemaking activities. Further, the Commission directed the staff to remain cognizant of ongoing efforts to risk inform 10 CFR Part 50 and to use the Planning, Budgeting, and Performance Management process as a framework by which to more effectively plan its work, allocate its resources, and assess its performance.

DISCUSSION:

As noted in SECY-99-022, public comment included suggestions to revise reporting rules in eight areas. The staff's recommendations for each of these areas are described below. For areas in which the staff proposes to take no action, the justifications are provided. For other areas, a schedule is proposed for providing a rulemaking plan or a Commission paper explaining why the staff does not believe rulemaking is needed. Additional milestones, beyond submittal of a rulemaking plan, if appropriate, will be covered in the appropriate rulemaking plan(s).

These recommendations have been developed within the framework of the Planning, Budgeting, and Performance Management process. This development included consideration of the following four factors:

- (1) Maintaining safety. In two of the changes suggested by commenters (Comments (2) and (3) below), the staff believes that the current requirements are of assistance in maintaining safety. Accordingly, the staff does not propose to take any further action with regard to Comments (2) and (3) as is discussed later in this paper.
- (2) Enhancing public confidence. There is some potential for an adverse effect on public confidence in that some may view a reduction in requirements as a less conservative action. However, only changes that have no adverse impact on safety are being considered.
- (3) Improving NRC efficiency and effectiveness. The staff's recommended action may result in fewer reports to be submitted to and reviewed by the NRC. However, in some cases, such as Comment (1) below, the potential savings may be offset by the cost of effecting the change.
- (4) Reducing unnecessary regulatory burden. Reducing unnecessary reporting burden is the essence of the proposed actions, although the burden associated with the reporting requirements varies with each rule.

In considering the appropriate schedule, the staff's recommended actions have limited potential for burden reduction, whereas rulemaking to effect the suggested changes would consume considerable resources. For Comments (1) through (5), the staff is recommending no further action for the reasons described in the individual discussions. For the reporting requirements addressed in Comments (6) through (8), the central thrust of the comments is to consider making the required reporting times in 10 CFR Parts 20, 72, and 73 more consistent with those currently being proposed for 10 CFR 50.72 and 50.73. However, the final disposition of these proposed changes will not be known until about April 2000. In addition, other priority work precludes beginning work until FY 2000. Finally, the Agreement State review process applies to 10 CFR Part 20. All of these considerations were included in developing the proposed schedules.

The staff's proposals for the eight areas listed in SECY-99-022 are as follows:

Comment 1: Amend 10 CFR 50.46(a)(3) to exclude annual reporting of non-significant errors in and corrections to approved ECCS [emergency core cooling system] models and applications.

Discussion: Currently, 10 CFR 50.46(a)(3) requires the following reports for an error in, or a change to, an acceptable ECCS evaluation model, or its application:

- (a) An error or a change that results in calculated performance that does not meet the ECCS acceptance criteria is defined in 10 CFR 50.46(a)(3)(ii) as a reportable event under 10 CFR 50.55(e), 50.72, and 50.73.
- (b) An error or correction that changes calculated peak cladding temperature by more than 50 F (including a cumulation of changes and errors with a sum of absolute magnitudes greater than 50 F) is considered significant and must be reported in writing within 30 days.
- (c) For other errors or corrections that affect calculated peak cladding temperature, the nature and estimated effect on the limiting ECCS analysis must be reported in writing at least annually.

The comment suggests elimination of the reports in Item (c). About one report per year, industry-wide, has been submitted under Item (c) in recent years. The staff believes that this suggestion has merit. By its own terms, Item (c) involves reporting of errors and corrections that are not considered significant. Furthermore, in the absence of Item (c), such errors and corrections would become significant and, thus, reportable under Item (b), if and when the sum of their absolute magnitudes rises to 50 F.

A rulemaking solely to accomplish this suggested change would not be justified because it would involve expending thousands of hours in order to reduce reporting burden by about 50 hours per year industry-wide. However, if other worthwhile suggestions for reducing reporting burden are identified, the staff will reconsider the need for rulemaking, and a combined rulemaking to accomplish several changes might be justified.

Comment 2: Delete the requirement for annual reporting of changes made pursuant to 10 CFR 50.59.

Discussion: Currently, 10 CFR 50.59(b)(2) requires licensees to provide a brief description of each change and a summary of its safety evaluation annually, or along with the final safety analysis report (FSAR) updates required by 10 CFR 50.71(e), or at such shorter intervals as may be specified in the license. Each power reactor licensee submits about one report every 2 years under this requirement. The staff has estimated that about 100 changes per reactor per year are reported.

The staff has recently submitted a final rule to the Commission in [SECY-99-130](#), dated May 12, 1999. The final rule would change the reporting interval to 24 months, but in other respects, this reporting requirement would remain unchanged. (This change in frequency would have little effect on power reactor licensees because most of them submit the reports along with the FSAR updates required by 10 CFR 50.71(e), which can be on a frequency of up to 24 months.)

The comment suggests deleting this reporting requirement entirely. The burden reduction that could be achieved from such a change is limited because licensees would still be required to evaluate the changes, maintain records related to them, and reflect the effects of the changes in the periodic FSAR updates. That is, the burden of creating the reports required by 10 CFR 50.59(b)(2) is limited to summarizing work that has already been done. Because no particular format is specified for the report, the burden of creating these reports can be, and sometimes is, reduced to the making of copies of the evaluations and transmitting them formally to the NRC.

Furthermore, the staff believes that these reports are of assistance in maintaining safety. Primarily, the reports are read by resident and region-based inspectors who use them to plan inspections of design changes. They also provide information to other staff members and the public about changes, tests, and experiments implemented without prior NRC approval. They are the only docketed source of information about tests, experiments, and the effects of temporary changes (if any) that are not reflected in periodic FSAR updates.

For these reasons, the staff does not propose any action or further evaluation with regard to this suggestion.

Comment 3: Amend the requirements for 24-hour reporting of fitness-for-duty events in 10 CFR 26.73(b).

Discussion: Currently, 10 CFR 26.73(b) requires reporting certain fitness-for-duty events by telephone within 24 hours. There is no requirement for written followup reports. Reporting under this requirement includes events such as the sale, use, or possession of illegal drugs within the protected area or by licensed personnel, confirmed positive drug tests for licensed personnel, or consumption of alcohol within the protected area by licensed personnel. The staff is completing work on a final rule that would redefine and clarify what is reportable. However, the 24-hour time limit would remain unchanged. About 40 reports per year, industry-wide, have been made under this requirement in recent years.

The comment suggests that the NRC consider a longer reporting time because individuals involved in this type of event would be promptly barred from the site. However, in some cases, that may not be so. For example, a licensee might find evidence of drugs or alcohol on site but lack the link to a particular individual necessary to bar the individual from the site. Furthermore, since a period of 24 hours is a relatively long time in which to make a telephone report, little or no burden reduction could be obtained by further extension of the required reporting time. Finally, in some cases, the staff may need to initiate followup action, such as a special inspection, and further extension of the required reporting time would delay such action without any compensating benefit. For these reasons, the staff does not propose any action or further evaluation with regard to this suggestion.

Comment 4: Amend the requirements for 1-hour reporting of fitness-for-duty events in 10 CFR 26.73(b).

Discussion: The fitness-for-duty events defined in 10 CFR 26.73(b) are reportable within 24 hours, not 1 hour as suggested by the comment. See Comment (3) above for a discussion of the suggestion to extend this 24-hour limit.

Comment 5: For construction permit holders, amend 10 CFR 50.55(e) in the same fashion as is proposed for 10 CFR 50.72 and 50.73.

Discussion: Currently, Section 10 CFR 50.55(e) requires that construction permit holders report defects and failures to comply that are associated with

a substantial safety hazard. About one report per year, industry-wide, has been submitted under this requirement in recent years. If construction becomes active at Bellefonte, the staff would expect to receive about two or three reports per year, industry-wide, as was the case when construction was active at Watts Bar.

The staff believes that this is an appropriate reporting criterion for a plant under construction. It is similar to the reporting criterion of 10 CFR Part 21 and has a generally higher (i.e., less restrictive) reporting threshold than 10 CFR 50.72 and 50.73. The staff is not aware of any recognized problems with 10 CFR 50.55(e), and it is not apparent how the reporting criterion might be improved to reduce burden. Any potential benefit in terms of burden reduction is very small and would be far outweighed by the cost of effecting a change (via rulemaking). For these reasons, the staff does not propose any action or further evaluation with regard to this suggestion.

Comment 6: Amend the requirements for immediate reporting of radiological events in 10 CFR 20.1906(d)(1), 20.1906(d)(2), 20.2201(a)(i), 20.2202(a), and 20.2203(a).

Discussion: Currently, the cited rules contain the requirements summarized below, which apply to power reactors as well as other licensees. On an industry-wide basis, power reactor licensees report about 1 event per year, and other licensees report about 70 events per year under these requirements.

- (a) Sections 20.1906(d)(1) and (2) require that a licensee receiving a shipment of radioactive material *immediately* notify the final delivery carrier and the NRC Operations Center when removable radioactive surface contamination, or external radiation levels, exceed limits specified in the rule.
- (b) Section 20.2201(a)(1)(i) requires that a licensee *immediately* report lost, stolen, or missing licensed material in excess of quantities specified in the rule if it appears that an exposure to persons in unrestricted areas could result.
- (c) Section 20.2202(a) requires that a licensee *immediately* report an event that may have caused or threatens to cause individual doses in excess of limits specified in the rule or radioactive releases in excess of limits specified in the rule.
- (d) Section 20.2203(a) requires that licensees provide a written report *within 30 days* after learning of (i) an incident for which notification is required by Section 20.2202, (ii) doses in excess of limits specified in the rule, (iii) levels of radiation or concentrations of radioactive material in excess of limits specified in the rule, or (iv) levels of radiation or releases of radioactive material in excess of 40 CFR Part 190, or of related license conditions (for licensees subject to those general applicable environmental radiation standards).

The comment suggests that the required reporting times should be changed to be consistent with the required reporting times in 10 CFR 50.72 and 50.73. For example, "immediately" could be changed to (i) "as soon as practical and in all cases within 1 hour" or (ii) "as soon as practical and in all cases within 8 hours." The requirement to report within 30 days could be changed to 60 days.

The staff proposes to evaluate the need to carry out a rulemaking to address these comments. The staff believes that there is merit in defining the term "immediate" in Part 20. However, another option would be to define "immediate" in a guidance document. The Part 20 changes would affect Agreement States and, in accordance with NRC Management Directive 6.3, Agreement State review will need to be considered in any final rulemaking plan and schedule. The staff does not believe that this rulemaking would result in a large burden reduction for the industry as the reporting requirement would not be eliminated. Therefore, this rulemaking is not being given a high priority. On the basis of other ongoing high-priority rulemakings, the staff would not begin this effort until FY 2000. Following evaluation and coordination with Agreement States, the staff will submit a rulemaking plan, or a Commission paper explaining why the staff thinks a rulemaking is not necessary, by October 30, 2000.

Comment 7: Section 72.75 contains the requirements for a 4-hour report and a 30-day written follow-up report. Revise this requirement to 8 hours and 60 days, similar to the changes proposed for 10 CFR 50.72 and 50.73.

Discussion: See the discussion for Comment (8) below.

Comment 8: Section 73.71 and Appendix G contain requirements for 1-hour reports. Amend these requirements to 8 hours, similar to the changes proposed for 10 CFR 50.72.

Discussion: The staff proposes to evaluate the need to carry out a rulemaking that addresses changes in both 10 CFR Parts 72 and 73. The rulemaking schedule will take into account the schedule for proposed changes to reporting requirements in 10 CFR 50.72 and 50.73 so that consistency can be maintained. If the reporting requirements in 50.72 and 50.73 should change, the staff will consider whether conforming changes to 10 CFR 72.75 and 73.71 would be appropriate. In an SRM dated May 27, 1999, on SECY-99-115, the Commission indicated that if the rulemaking to revise 10 CFR 50.73(b) goes forward, the staff should consider at that time whether conforming changes to Part 72 would be appropriate. The final rule to modify 10 CFR 50.72 and 50.73 is currently scheduled for publication in April 2000. The staff will provide a rulemaking plan for changes to reporting requirements in 10 CFR Parts 72 and 73, or a Commission paper explaining why the staff thinks that a rulemaking is not necessary, within 5 months after the Part 50 rule is completed.

COORDINATION:

OGC has reviewed this paper and has no legal objection to its contents. The OCIO has reviewed this paper for information technology and information management implications and concurs in it. The OCFO has reviewed this paper for resource implications and has no objections to its contents.

RECOMMENDATION:

That the Commission approve the staff's proposed actions and schedules as described above.

original /s/ by
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