

January 13, 2014

The Honorable Steve Scalise
United States House of Representatives
Washington, DC. 20515

Dear Congressman Scalise:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am writing to follow up on your request in the December 12, 2013 hearing before the House Energy and Commerce Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy for a summary of forthcoming requirements from Fukushima lessons learned.

In response to Questions for the Record (QFR) from the February 28, 2013, hearing, NRC provided an April 26, 2013, reply outlining the post-Fukushima recommendations for potential improvements to the regulation and oversight of nuclear power plants in the U.S. Additionally, the response included discussion of the NRC efforts to manage Cumulative Effects of Regulation (CER). To summarize, there are 35 discrete actions under consideration by the agency that originated from the Near-Term Task Force's recommendations. The merit of each of these actions is evaluated to ensure that called for actions to promote safety actually are needed and do not inadvertently distract licensees from executing other fundamental safety or security responsibilities.

Enclosed is the QFR response. We hope that this information is responsive to your request and would gladly offer you or your staff a briefing to clarify any additional questions or concerns.

If you need any additional information, please contact me or Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA/

Allison M. Macfarlane

Enclosure:
[As stated](#)

cc: Representative Fred Upton
Representative Henry Waxman

Member Requests for the Record from Representative Steve Scalise

QUESTION. I don't know how anyone can look at this slide and dismiss the cumulative impact of regulations as merely a matter of scheduling, and I am told that, in addition to this, there are approximately 40 more post-Fukushima items yet to be considered. Is that correct?

ANSWER.

The original Near Term Task Force report, from which most post-Fukushima items originated, contained a total of 12 overarching recommendations regarding potential improvements to the regulation and oversight of nuclear power plants in the U.S. Many of these recommendations had subparts, which focused on improved accident mitigation strategies for beyond design basis external hazards, spent fuel pool instrumentation, hardened containment venting systems for boiling water reactors with Mark I and Mark II containments, confirming compliance with seismic and flooding design bases, reevaluating seismic and flooding hazard assumptions, and assessing staffing and communications capabilities during extended station blackout and multi-unit events.

Counting each subpart, there were 35 total recommendations for proposed action. In its evaluation and implementation of these recommendations, the Nuclear Regulatory Commission (NRC) has recognized that many of these proposed actions can be consolidated and addressed by a single action. For example, the Mitigating Strategies Order issued in March 2012, when fully implemented, is expected to address at least seven subparts of various overarching recommendations.

The NRC continues to review and evaluate the remaining post-Fukushima items to determine if there is a sound technical basis to take additional regulatory action. The NRC staff issued its detailed plans for further evaluation of these items in a July 13, 2012, status paper to the

Enclosure

Commission, and issued its latest update on these activities in a February 14, 2013, information paper to the Commission.

The main focus of the NRC's efforts to address the cumulative effects of regulation (CER) is less a matter of scheduling and more one of ensuring that called for actions to promote safety actually are needed and do not inadvertently distract licensees from executing other fundamental safety or security responsibilities. The NRC developed the following definition for the cumulative effects of regulation (CER):

CER describes the challenges that licensees, or other impacted entities (such as State partners) face while implementing new regulatory positions, programs, or requirements (e.g., rules, generic letters, backfits, inspections). CER is an organizational effectiveness challenge that results from a licensee or impacted entity implementing a number of complex regulatory positions, programs or requirements within a limited implementation period and with available resources (which may include limited available expertise to address a specific issue). CER can potentially distract licensee or entity staff from executing other primary duties that ensure safety or security.

In order to address CER, the NRC added procedures to its rulemaking process to provide licensees and other impacted entities an opportunity to inform the NRC of the impacts of proposed rules before they are finalized and implemented. To provide this opportunity, the NRC increased public participation throughout all phases of the rulemaking process, including by seeking specific public comments on CER when proposed rules are published for comment, and by holding a public meeting on implementation during the final rule stage. The NRC also added publishing draft guidance with proposed rules – and final guidance with final rules – to its

rulemaking process. The goal of these additional procedures is to identify any resource constraints early in the rulemaking process, reduce the likelihood of unintended consequences, and improve focus on safety-beneficial activities. While these additional CER-related rulemaking procedures may reduce, or even in some cases eliminate rulemaking actions, such eliminations or reductions are not in this respect a principal objective of CER.

The NRC continues to examine the additional procedures put in place to address CER. Last month, the Commission directed the staff to prepare a report due in March 2015 on the effectiveness of the CER process and its implementation status. The Commission also directed the staff to:

- Develop and implement outreach tools that will allow NRC to consider more completely the overall impacts of multiple rules, orders, generic communications, advisories, and other regulatory actions on licensees and their ability to focus effectively on items of greatest safety import.
- Seek volunteer facilities to perform “case studies” to review the accuracy of cost and schedule estimates used in NRC’s regulatory analysis.
- Carefully monitor the CER approach to ensure that no significant unintended consequences result from the direction provided.

As the agency evaluates potential additional regulatory activities, actions planned or already taken will be accounted for in future decisions. For example, the Commission is currently considering a March 27, 2013, staff proposal to change the implementation plans for some additional emergency preparedness recommendations because their intent is being adequately addressed through the implementation of the Orders on mitigating strategies that were issued in March 2012.