Task IV.G: Improve Safety Rulemaking Procedures

The objectives of this task are to improve NRC rulemaking procedures to provide a greater opportunity for public participation, to assure a periodic and systematic reevaluation of NRC rules, and to include appropriate provision for backfitting in all new regulations. (Item V.12 discusses related action assessing the delegation of rulemaking authority to members of the staff.)

ITEM IV.G.1: DEVELOP A PUBLIC AGENDA FOR RULEMAKING

DESCRIPTION

At the time NUREG-0660[1] was prepared, the NRC was issuing quarterly status reports on petitions for rulemaking and proposed rules and a status summary report listing those regulations under development by RES. Also published were advance notices of proposed rulemaking on major NRC actions.

The TMI Action Plan[2] called for the publication of a semiannual agenda for significant rulemaking actions as required by Executive Order 12044. The criteria for determining significant regulations were to be developed by RES and the publication of the agenda was to be accomplished by ADM, after consultation with other program offices.

The first semiannual regulatory agenda was published in the Federal Register[3] in October 1981 and subsequent publications were made in April and October 1982.[4,5] Future publications of the agenda will be made in the Federal Register in April and October every year. This agenda describes the need and legal basis for each regulation and indicates the status of each regulation on the agenda (or previous editions of the agenda) until the issuance of final rules. This item is not directly related to safety and, therefore, is considered a licensing issue.

CONCLUSION

This Licensing Issue has been resolved.

ITEM IV.G.2: PERIODIC AND SYSTEMATIC REEVALUATION OF EXISTING RULES

DESCRIPTION

NRC will comply with the intent of Executive Order 12044, which requires a periodic and systematic reevaluation of existing rules and that regulations be written in plain English. NRC will first review its rules for content, quality, and clarity and, at a later date, will review the regulations as a body for proper structure. The initial review will concentrate on areas where rules are broadly affected by the accident at Three Mile Island. This initial review should be completed within five years and should be repeated every five years thereafter.

Since the thrust of this issue is directed at assuring that regulations are clearly stated and easily understood, there is no direct public or occupational risk reduction which could be attributed to this item.

Resolution of this issue should result in less confusion and conflict in the preparation and review of license applications which, in turn, would result in cost and time savings to both the industry and the NRC staff.

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[1] NUREG-0660, "NRC Action Plan Developed as a Result of the TMI-2 Accident," U.S. Nuclear Regulatory Commission, May 1980, (Rev. 1) August 1980.
[2] NUREG-0660, "NRC Action Plan Developed as a Result of the TMI-2 Accident," U.S. Nuclear Regulatory Commission, May 1980, (Rev. 1) August 1980.
[3] Federal Register Notice 46 FR 53594, "NRC Regulatory Agenda," October 29, 1981.
[4] Federal Register Notice 47 FR 18508, "NRC Regulatory Agenda," April 29, 1982.
[5] Federal Register Notice 47 FR 48960, "NRC Regulatory Agenda," October 28, 1982.

CONCLUSION

The NRC rules most directly associated with TMI accident considerations include operator training, emergency planning, environmental monitoring, radiation protection, and consistent treatment of fission product release from fuel cladding failure. The rules in these areas have been reviewed and actions taken as needed. Additionally, systematic reviews of other regulations have been carried out or are underway under several programs throughout the NRC.

A RES program was initiated in 1984 to review selected existing regulatory requirements in terms of risk effectiveness. A contractor report (NUREG/CR-4330,[6] Volumes 1 and 2) was published in 1986: Volume 1 summarized the results of a survey to identify regulatory requirements that may have marginal importance to safety; Volume 2 provided the results of a detailed evaluation in terms of risk, dose, and cost for assumed changes in requirements for three regulatory areas. The NRC staff is currently evaluating these reports and rule changes will be made where appropriate. Four additional regulatory areas are currently under evaluation by the contractor.

A program to systematically review Technical Specifications was completed by a NRC task force in 1985. Recommendations were made to improve the efficiency and effectiveness of Technical Specifications. These recommendations are being implemented by the Technical Specifications Coordination Branch, Division of Human Factors Technology, Office of Nuclear Reactor Regulation.

Another program was initiated in 1984 by the EDO following the UCLA relicensing hearings. The purpose of this program is to identify inconsistencies among safeguards (security) regulations, regulatory guides, inspection procedures, licensing criteria, and other guidance. These will be modified as needed.

Based on the ongoing NRC programs that have been established to systematically evaluate existing rules, RES determined that this Licensing Issue has been resolved.[7]

ITEM IV.G.3: IMPROVE RULEMAKING PROCEDURES

DESCRIPTION

NRC will reevaluate the rulemaking process to ensure that it is properly focused on resolving important safety issues and that the procedures are clear, understandable, efficient, and well-publicized. NRC will then consider a proposal to codify in NRC regulations and practice a procedure under which all new rules would include consideration of backfitting to existing plants.

The establishment of the Committee for the Review of Generic Requirements (CRGR) and the limited delegation of Commission rulemaking authority to the Office of the Executive Director for Operations[8] have implemented changes in the rulemaking procedure which are in direct response to this issue. As a part of the revised process, value/impact analyses[9] will be required for all proposed or final rules which would (a) likely have an effect on the economy of greater than $100M in direct and indirect costs, (b) likely result in a significant adverse effect on the public health, safety or environment, or (c) result in a substantial increase in cost or prices. Value/impact analyses will include backfitting considerations. In addition, the Regulatory Reform Task Force has recently recommended a change to the backfit rule (10 CFR 50.109) which would redefine the term "backfitting" as applied to those plants which have received a construction permit and would require an analysis to establish that backfitting a new or revised requirement would result in a substantial increase in the protection of public health and safety.[10] This item

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[6] NUREG/CR-4330, "Review of Light Water Reactor Regulatory Requirements," U.S. Nuclear Regulatory Commission, (Vol. 1) April 1986, (Vol. 2) June 1986.
[7] Memorandum for V. Stello from E. Beckjord, "Closeout of TMI Action Plan Items," November 13, 1986.
[8] SECY-81-676, "Delegation of Rulemaking Authority to the EDO," U.S. Nuclear Regulatory Commission, December 3, 1981. [8201110403]
[9] SECY-82-187, "Revised Guidelines for Value-Impact Analyses," U.S. Nuclear Regulatory Commission, May 7, 1982. [8205130275]
[10] SECY-82-447, "Draft Report of the Regulatory Reform Task Force," U.S. Nuclear Regulatory Commission, November 3, 1982. [8211160547]

is not directly related to public safety and, therefore, is considered a licensing issue.

CONCLUSION

This Licensing Issue has been resolved.

ITEM IV.G.4: STUDY ALTERNATIVES FOR IMPROVED RULEMAKING PROCESS

DESCRIPTION

NRC will study alternatives to the present rulemaking procedures for the purpose of improving the Commission's rulemaking efforts.

Several means to enhance the Commission's rulemaking efforts have been addressed, in part, in NUREG-0499,[11] including Supplement 1, and in the GC/OPE Memorandum to the Commission on "Review of Delegations of Authority Within NRC."[12] In addition, the Commission has delegated substantial rulemaking authority to the EDO[13] (See Item IV.G.3). A number of improvements to the rulemaking process have already been made as indicated by the completion of Item IV.G.3. However, there will always be a need to investigate and evaluate possible changes to the process as an ongoing activity. This ongoing need has been recognized and has been dealt with by chartering the Regulatory Analysis Branch of RES with the responsibility for the investigation and evaluation of proposed improvements to the rulemaking process.[14] This item is not directly related to public safety and, therefore, is considered a licensing issue.

CONCLUSION

Inasmuch as initial improvements have been studied and implemented, and an institutional change has been made to provide for the continuing investigation and evaluation of improved rulemaking procedures, this Licensing Issue has been resolved.

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[11] NUREG-0499, "Preliminary Statement on General Policy for Rulemaking to Improve Nuclear Power Plant Licensing," U.S. Nuclear Regulatory Commission, December 1978.
[12] Memorandum for J. Hendrie from L. Bickwit, "Review of Commission Delegation of Authority," October 4, 1979. [8001150518]
[13] SECY-81-676, "Delegation of Rulemaking Authority to the EDO," U.S. Nuclear Regulatory Commission, December 3, 1981. [8201110403]
[14] Memorandum for R. Minogue from R. Bernero, "Charter of the Regulatory Analysis Branch," October 9, 1981. [8110280720]