



~~**OFFICIAL USE ONLY**~~
~~SENSITIVE INTERNAL INFORMATION~~
~~LIMITED TO THE NRC UNLESS THE~~
~~COMMISSION DETERMINES OTHERWISE~~

RULEMAKING ISSUE (Notation Vote)

June 10, 2024

SECY-24-0049

FOR: The Commissioners

FROM: Raymond V. Furstenau
Acting Executive Director for Operations

SUBJECT: PROPOSED RULE: REPORTING REQUIREMENTS FOR
NONEMERGENCY EVENTS AT NUCLEAR POWER PLANTS
(RIN 3150-AK71; NRC-2020-0036)

PURPOSE:

The purpose of this paper is to request Commission approval to publish in the *Federal Register* the enclosed proposed rule (enclosure 1) that would amend regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," to eliminate those nonemergency event reporting criteria that are not important to safety, do not require prompt action from the U.S. Nuclear Regulatory Commission (NRC), or can be tracked using other existing agency processes. The proposed rule would also allow for alternative reporting methods for certain nonemergency events.

BACKGROUND:

On August 2, 2018, Bill Pitesa, on behalf of the Nuclear Energy Institute, submitted a petition for rulemaking (PRM) requesting that the NRC amend 10 CFR 50.72, "Immediate notification requirements for operating nuclear power reactors," to remove all nonemergency event notification requirements. The NRC docketed the request as PRM-50-116 and the petition review board recommended approval to consider the petition, in part, in the NRC's rulemaking process. The NRC staff provided a rulemaking plan to the Commission under SECY-20-0109,

CONTACT: Soly Soto Lugo, NMSS/REFS
301-415-7528

Enclosure 3 transmitted herewith contains Official Use Only - Sensitive Internal Information. When separated from Enclosure 3 this transmittal document is decontrolled.

~~**OFFICIAL USE ONLY**~~
~~SENSITIVE INTERNAL INFORMATION~~
~~LIMITED TO THE NRC UNLESS THE~~
~~COMMISSION DETERMINES OTHERWISE~~

The Commissioners

- 2 -

"Petition for Rulemaking and Rulemaking Plan on Immediate Notification Requirements for Nonemergency Events (PRM-50-116; NRC-2018-0201)," dated November 30, 2020 (Agencywide Documents Access and Management System Accession No. ML20073G004), which recommended evaluating the nonemergency event reporting requirements of 10 CFR 50.72(b).

In the associated staff requirements memorandum (SRM), SRM-SECY-20-0109, dated July 28, 2021 (ML21209A947), the Commission directed the NRC staff to proceed with a rulemaking on the immediate notification requirements for nonemergency events in 10 CFR 50.72(b) and close the docket for PRM-50-116. The Commission provided additional direction to the staff in SRM-SECY-20-0109, specifically that (1) changes that shift the responsibility for gathering, verifying, and communicating information on nonemergency events from licensees to NRC resident inspectors should not be pursued, and (2) the staff should discontinue this rulemaking effort if it determines at any point that the costs are not justified by the benefits or that the rulemaking would unacceptably degrade the NRC's situational awareness.

On November 9, 2022, the NRC published in the *Federal Register* (87 FR 67571) a regulatory basis to support a 10 CFR 50.72(b) rulemaking. In the regulatory basis, the NRC recommended maintaining five nonemergency event reporting requirements, eliminating six nonemergency event reporting requirements, revising guidance for two nonemergency event reporting requirements, and adding a voluntary alternative reporting method. The NRC received 12 comment submissions on the regulatory basis, all of which were considered in the development of the proposed rule. These comments did not result in changes to the staff recommendations in the regulatory basis, so those recommendations are maintained in the proposed rule. Section III.B of enclosure 1 includes the summaries of and responses to these comments.

DISCUSSION:

Overview of Proposed Changes to NRC Regulations

The proposed rule would amend 10 CFR 50.72 to eliminate the reporting associated with certain nonemergency events and allow nuclear power reactor licensees to use alternative, technology-inclusive methods for submitting notifications to the NRC. This rulemaking would better align the reporting requirements with the current needs of the agency and power reactor licensees by eliminating those reports for nonemergency events that are not important to plant safety, do not require prompt NRC action, or can be tracked using other existing agency processes. The proposed changes would help ensure that the agency devotes its resources to those events for which the agency needs to take prompt action while maintaining appropriate NRC and stakeholder awareness of these events. The proposed rule would also allow for the submission of certain nonemergency event reports by methods other than the Emergency Notification System, the use of which is required by 10 CFR 50.72(a). These changes would result in a reporting process that maintains openness, reduces regulatory burden and addresses advances in technology. As part of its evaluation of each of the reporting requirements in 10 CFR 50.72(b), the staff considered the Principles of Good Regulation, the Be riskSMART framework, and the internal NRC evaluation and communications process for nonemergency event notifications.

The Commissioners

- 3 -

The proposed rule would eliminate the following nonemergency event reporting requirements in 10 CFR 50.72:

- 10 CFR 50.72(b)(2)(iv)(A)—An event that results or should have resulted in an emergency core cooling system (ECCS) discharge into the reactor coolant system as a result of a valid signal, except when the actuation results from and is part of a pre-planned sequence during testing or reactor operation.
- 10 CFR 50.72(b)(2)(xi)—An event or situation related to the health and safety of the public or onsite personnel, or protection of the environment, for which a news release is planned or notification to other government agencies has been or will be made.
- 10 CFR 50.72(b)(3)(iv)(A)—An event or condition that results in valid actuation of specified safety systems.
- 10 CFR 50.72(b)(3)(v)—An event or condition that could have prevented fulfillment of the safety function of structures or systems needed to shut down and maintain the reactor in a safe condition, remove residual heat, control the release of radioactive material, or mitigate the consequences of an accident.
- 10 CFR 50.72(b)(3)(xii)—An event requiring the transport of a radioactively contaminated person to an offsite medical facility for treatment.
- 10 CFR 50.72(b)(3)(xiii)—An event that results in a major loss of offsite communications capability, offsite response capability, or emergency assessment capability.

The proposed rule would add new paragraph (a)(6) to 10 CFR 50.72 to enable licensees to submit certain nonemergency event reports via methods other than the Emergency Notification System. This innovative, technology-inclusive change would allow the transmission of certain nonemergency event notifications to the NRC using more efficient means than a telephone line. One example of this technology is the NRC's online Mission Analytics Portal, External (MAP-X), that the NRC uses to facilitate electronic submission of forms. Once a licensee were to submit an event notification through the portal, MAP-X would send the information to the Headquarters Operations Officer for situational awareness and to the NRC's operating experience team (nuclear power plants only) for data retention, tracking, and trending. The development of MAP-X is part of the NRC's overall modernization objective to streamline the flow of information from licensees to the NRC and warehouse data for operational analytics.

Section III.B of enclosure 1 includes additional details on the evaluation process and proposed revisions to the requirements.

NRC Situational Awareness and Public Openness

Under 10 CFR 50.72(a)(1), licensees are currently required to submit notifications of nonemergency events using the Emergency Notification System by calling the Headquarters Operations Center. The Headquarters Operations Center coordinates communication of the event notification report to NRC management and staff, NRC regional points of contact, internal databases, and the public. Typically, the agency processes these communications through entry

The Commissioners

- 4 -

of the event notification report into an internal database, emails to internal stakeholders, and posting of the event notification report to the agency's public website by the next business day. These actions provide rapid communication for broader agency and external stakeholder consideration.

The approach described above allows the NRC to maintain overall situational awareness. Adoption of the proposed rule would result in delayed awareness of certain individual events for NRC Headquarters staff and management and the public. Removal of a reporting requirement would impact communication for these events in that 1) the events would not be communicated internally to the NRC Headquarters technical points of contact and management unless identified through other routine operating experience channels, and 2) the events would not appear in the NRC Headquarters Operations Center database or the NRC's internal operating experience tracking system or on the public website.

The NRC's situational awareness of events associated with the criteria proposed for elimination of licensee reporting under 10 CFR 50.72 would be sufficiently maintained, consistent with their significance, under the normal inspection activities occurring as part of the Reactor Oversight Process, and licensee event reports required under 10 CFR 50.73, "Licensee event report system." The proposed changes to the rule would not require the resident inspectors to gather, verify, or communicate any information beyond that already identified in existing processes.

Regulatory Analysis

Implementation of the proposed rule would be quantitatively cost-beneficial to both the NRC and the industry and would result in a net benefit over the lifetime of the rule of approximately \$3.7 million using a 7 percent discount rate and \$4.7 million using a 3 percent discount rate. The proposed rule would also provide qualitative benefits in the areas of regulatory efficiency and effectiveness for both the NRC and the industry. Enclosure 2 contains the regulatory analysis supporting the proposed rule.

Stakeholder Engagement

The NRC held public meetings on November 4, 2021, to request public input on issues to consider in the development of a regulatory basis; on December 9, 2021, to discuss the NRC staff's approach to evaluating the nonemergency event notifications in a regulatory basis; and on December 13, 2022, to describe and answer questions about the regulatory basis. Section II.B of enclosure 1 gives additional details on public interactions during the development of the proposed rule.

Implementation Guidance

The NRC has developed draft guidance, NUREG-1022, Revision 4, "Event Report Guidelines: 10 CFR 50.72 and 10 CFR 50.73; Draft Report" (ML24120A380), for the implementation of the proposed requirements in this rulemaking. The revised document removes the guidance related to notifications that would no longer be required and adds new guidance on methods for submitting reports to the NRC other than the Emergency Notification System. Additionally, the revised guidance would update, correct, and clarify several sections supporting existing regulations.

The Commissioners

- 5 -

As a separate matter, on April 17, 2024, the NRC issued a draft of Supplement 2 to NUREG-1022, Revision 3 (ML24102A280), to clarify guidance on notifications for degraded and unanalyzed conditions, which are reports that would not be removed by the proposed rule. The NRC intends to issue the final version of NUREG-1022, Revision 3, Supplement 2, before issuing the final version of NUREG-1022, Revision 4, so that Revision 4 to NUREG-1022 would include the guidance in Supplement 2. Section XIII of enclosure 1 contains additional details on the availability of guidance.

Backfitting and Issue Finality Considerations

The NRC is proposing the elimination of certain reporting requirements in 10 CFR 50.72(b) for nonemergency events at nuclear power plants. Eliminating these reporting requirements would not constitute backfitting under 10 CFR 50.109, “Backfitting.” First, eliminating one or more of the reporting requirements would not meet the definition of “backfitting” because these reports are not required to operate a nuclear power reactor. Second, as a general matter, eliminating a requirement does not meet the definition of “backfitting” because such an act by the NRC would be a nonmandatory relaxation of an existing requirement. In addition, for the same reasons, the proposed elimination of these nonemergency event reporting requirements would not affect the issue finality of a combined license under 10 CFR Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants.” Finally, allowing nuclear power reactor licensees to use technology-inclusive alternatives to the Emergency Notification System for making some nonemergency event notifications to the NRC would not meet the definition of “backfitting” in 10 CFR 50.109 or affect the issue finality of a combined license, because an alternative method would be a voluntary regulatory alternative that licensees would not be required to use. Section VIII of enclosure 1 includes additional details on backfitting and issue finality.

Nonconcurrency

An NRC staff member expressed concerns that resulted in a nonconcurrency on this paper, a formal nonconcurrency package (NCP-2024-001), NRC Form 757 dated February 6, 2024, can be found in ADAMS Accession No. ML24088A313. The nonconcurrency package includes a public, nonpublic and a nonpublic-Security Related Information versions of NCP-2024-001.

There were several bases for the nonconcurrency, including: (1) elimination of the reporting criteria is contrary to the Principle of Good Regulation of openness; (2) the reporting burden would shift from licensees to the resident inspectors, contrary to Commission direction in SRM-SECY-20-0109; (3) the regulatory basis does not demonstrate that the degradation in NRC situational awareness can be mitigated without relying on resident inspectors, contrary to Commission direction in SRM-SECY-20-0109; and (4) the proposed changes to the rule did not fully consider new reactor designs.

Alternate View

An NRC staff member provided an alternate view that includes additional options for Commission consideration. The additional options provide an alternative for reducing the burden of 10 CFR 50.72(b)(2)(iv)(A), on ECCS discharge notifications; 10 CFR 50.72(b)(3)(iv)(A), on notifications of events or conditions resulting in valid actuation; and 10 CFR 50.72(b)(3)(v), on notifications of events or conditions preventing the fulfillment of safety functions. The alternate

The Commissioners

- 6 -

view also proposes to retain the requirement in 10 CFR 50.72(b)(3)(xiii) for notifications of events that result in a major loss of communications or emergency assessment capability. The alternate view provides the following recommendations:

- Retain the reporting requirements in 10 CFR 50.72(b)(2)(iv)(A), 10 CFR 50.72(b)(3)(iv)(A), and 10 CFR 50.72(b)(3)(v), but consider extending the 8-hour reporting time requirement to mitigate licensee burden while maintaining NRC operational awareness of plant events and degraded conditions.
- Retain the reporting requirements in 10 CFR 50.72(b)(3)(xiii) as is, or conduct additional outreach with States to better understand how the proposed rule might adversely affect their ability to implement offsite response actions to protect the public.

Enclosure 4 provides the full alternate view, and enclosure 5 provides the staff's response.

RECOMMENDATION:

The staff recommends that the Commission approve the enclosed proposed rule for publication in the *Federal Register*.

If the Commission approves publication of the proposed rule, the staff will complete the following activities:

- The staff will publish the proposed rule in the *Federal Register* for a 60-day public comment period.
- The staff will submit information collection requirements to the Office of Management and Budget for its review and approval on or immediately after the date of publication of the proposed rule in the *Federal Register*.
- The Office of Congressional Affairs will inform the appropriate congressional committees.
- The staff will work with the Office of Public Affairs on an appropriate public communication when the NRC publishes the proposed rule in the *Federal Register*.
- The staff will hold a public meeting during the comment period for the proposed rule.

COORDINATION:

The Office of the General Counsel reviewed this package and has no legal objection to the publication of the proposed rule. The Office of the Chief Financial Officer reviewed this package and has no concerns with the estimated resources in Enclosure 3. The Committee to Review Generic Requirements determined that it did not need to review the proposed rule, because (1) the Committee and the NRC Backfitting Community of Practice reviewed the associated regulatory basis and had no backfitting concerns, (2) the public comments on the regulatory

The Commissioners

- 7 -

basis did not raise backfitting concerns, and (3) the proposed rule does not contain a new or changed requirement that would constitute backfitting. The Advisory Committee on Reactor Safeguards (ACRS) also elected not to review the proposed rule. The staff will provide an information copy of the proposed rule to the ACRS after publication.



Raymond V. Furstenau

Acting Executive Director for Operations

Enclosures:

1. Proposed Rule: FRN: Reporting Requirements for Nonemergency Events at NPPs
2. Proposed Rule: Nonemergency Event Reporting Proposed Rule Regulatory Analysis
3. Proposed Rule: Estimated Resources- Reporting Requirements for Nonemergency Events at NPPs (nonpublic)
4. Proposed Rule: Alternate View – Reporting Requirements for Nonemergency Events at NPPs
5. Proposed Rule: NRC Staff Response to Alternate View- Reporting Requirements for Nonemergency Events at NPPs
6. Annotated Comments Submissions on the Regulatory Basis, Reporting Requirements for Nonemergency Events at NPPs

~~OFFICIAL USE ONLY SENSITIVE INTERNAL INFORMATION~~
~~LIMITED TO THE NRC UNLESS THE COMMISSION DETERMINES OTHERWISE~~

The Commissioners

-8-

SUBJECT: PROPOSED RULE: REPORTING REQUIREMENTS FOR NON EMERGENCY
EVENTS AT NUCLEAR POWER PLANTS (3150-AK71; NRC-2020-0036) DATED:
June 10, 2024

ADAMS Accession Number: Pkg ML23318A475
ADAMS Accession Number: SECY Paper ML23318A479
ADAMS Accession Number: Enclosure 1 ML23318A476
ADAMS Accession Number: Enclosure 2 ML23318A478
ADAMS Accession Number: Enclosure 3 ML23318A480
ADAMS Accession Number: Enclosure 4 ML24080A008
ADAMS Accession Number: Enclosure 5 ML24080A007
ADAMS Accession Number: Enclosure 6 ML24080A002
Nonconcurrence Number NCP-2024-001: ML24088A313

*via email SECY-012

OFFICE	QTE	NMSS/REFS	NMSS/REFS	NMSS/REFS	NMSS/REFS	NRR/DRO
NAME	JDougherty	MDeJesus	SSotoLugo	ABillochColon	CBladey	LRegner
DATE	11/28/2023	11/29/2023	11/29/2023	12/7/2023 (THammock)	2/8/2024	1/23/2024
OFFICE	NSIR/DPR	NSIR/DPR	NMSS/REFS	NRR/DRO	NRR/DORL	NSIR/DPR
NAME	GEatmon	CNolan	CRegan	RFelts	BPham	KBrock
DATE	1/29/2024	NCP-2024-001	2/14/2024 (MRalph)	2/15/2024 (PMcKenna)	2/15/2024	2/15/2024 (MWaters)
OFFICE	NMSS	NSIR	OCFO	OCIO/GEMS	R-I	R-II
NAME	JLubinski	MGavrilas	LYee	DCullison	RLorson	LDudes
DATE	3/24/2024	3/27/2024*	3/8/2024	3/22/2024	3/21/2024	3/7/2024
OFFICE	R-III	R-IV	OE	OGC	NRR	OEDO
NAME	JGiessner	JMonninger	DPelton	HBenowitz	AVeil	RFurstenau
DATE	3/22/2024 (MShuaibi)	3/19/2024	3/11/2024	4/12/2024	4/25/2024 (MKing)	06/10/2024

OFFICIAL RECORD COPY

~~OFFICIAL USE ONLY SENSITIVE INTERNAL INFORMATION~~
~~LIMITED TO THE NRC UNLESS THE COMMISSION DETERMINES OTHERWISE~~