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March 10, 2021

Mr. John W. Lubinski
Director, Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: NRC's Retrospective Review of Administrative Requirements

Project Number: 689

Dear Mr. Lubinski:

The Nuclear Energy Institute (NEI)¹, on behalf of its members, provides recommendations for your consideration to expedite the U.S. Nuclear Regulatory Commission's (NRC's) Retrospective Review of Administrative Requirements (RROAR). We see this project as an opportunity for the NRC to modernize regulatory reporting and demonstrate transformative thinking befitting a modern, risk-informed regulator.

The NRC began the RROAR initiative in its current form almost four years ago (see attachment). This comprehensive review of the NRC's administrative requirements has proven to be complex, involving nearly 300 reporting requirements by our count, and the project requires coordination with a large number of NRC and external stakeholders. We recognize that the project was delayed last year due to the diversion of NRC resources to the NRC's COVID response. However, we are concerned that on its current pace, the RROAR initiative will reach its fifth or sixth anniversary before the industry sees any tangible results.

This modernization initiative will help the NRC and the industry focus on what matters most to safety, a benefit to all. As a result, we offer the recommendations below.

We urge the NRC to:

- Treat this effort as a model under the agency's Be riskSMART Decision-Making Framework and Process Simplification Transformation Initiative.

¹ The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

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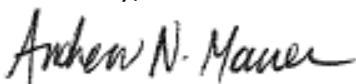
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- Reevaluate the RROAR project strategy to focus on tangible progress in the near-term. This would amount to piloting more timely and efficient ways to review and relieve regulatory administrative burdens.
- Work with external stakeholders to identify which of the administrative requirements are amenable to common solutions. We offered suggestions for segmenting the requirements into “treatment groups” in our May 6, 2020, comment letter on RROAR.² In addition, perhaps the use of direct final rulemaking can be employed to discontinue numerous reports that are no longer needed. We would be happy to meet with the staff to refine this approach further.
- Communicate with external stakeholders on a monthly basis and in meaningful detail about the project status and the schedule for producing tangible results. To date, project updates have been sporadic and have provided little information regarding progress or detailed schedule.
- Involve external stakeholders in brainstorming and problem solving. This project is of great interest to the industry as it could reduce unnecessary burden on licensees through the use of modern information technology.
- Update external stakeholders on the NRC’s progress in responding to NEI’s Petition for Rulemaking (PRM) 50-116³, which would eliminate immediate notification requirements for non-emergency events currently required by 10 CFR Part 50.72. This petition remains open with the NRC⁴ and remains an industry priority for relieving unnecessary administrative burden.

We offer these recommendations in the spirit of focusing NRC and industry time and attention on what matters most to safety and we stand ready to work with the NRC staff in expediting this effort.

If you have questions in this matter, please contact me.

Sincerely,



Andrew N. Mauer

Attachment

c: Ms. Andrea Veil, NRC/NRR
Mr. Andrew Carrera, NRC/NMSS
Mr. Kevin Coyne, NRC/NMSS
Mr. Robert Lewis, NRC/NMSS

² Letter from James E. Slider (NEI) to Andrew G. Carrera (NRC), “Comments on the NRC’s Retrospective Review of Administrative Requirements [85 FR 6103]; Docket ID NRC-2017-0214]”, ADAMS ML20128J340, submitted via regulations.gov.

³ The petition was docketed on November 18, 2018 and published in the Federal Register on November 20, 2018 at 83 Fed. Reg. 58509.

⁴ Status from NRC website, <https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/PetitionDetails.html?id=26>, retrieved February 18, 2021.

Attachment - Timeline of the Retrospective Review Project

- **2011 – Initial Plan (Anticipating Impacts of Fukushima)**
 - July 11, 2011: President Obama issues Executive Order 13579, “Regulation and Independent Regulatory Agencies,”⁵ which recommends that independent agencies develop and issue plans to identify regulations that can be made more effective or less burdensome while achieving regulatory objectives.⁶
 - November 16, 2011: NRC published its initial plan in response to E.O. 13579.⁷ The initial plan acknowledged that the agency’s response to the March 2011 Fukushima event could lead to substantial new rules.
- **2012 – Draft Plan**
 - November 23, 2012: NRC published for public comment its draft plan to address E.O. 13579.⁸ The draft plan included discussion of incorporating risk assessments into regulatory decision-making, addressing the cumulative effects of regulation, prioritizing rulemaking activities, rulemaking in response to Fukushima, and the NRC’s previous and ongoing efforts to update its regulations.
- **2014 – Final Plan (To Rely on Existing Processes)**
 - January 24, 2014: NRC published its final plan for retrospective review of regulations.⁹ The final plan identified processes, programs and activities in place to assess significant regulations. The NRC considered that, in the aggregate, these met the objective of E.O. 13579. The NRC committed to revise the final plan periodically, and to publish those revisions on the NRC’s Open Government website. Our research did not find any updates to the final plan.
- **2017 – New Retrospective Review**
 - August 11, 2017: NRC announces it is initiating a retrospective review beginning in the fall of 2017¹⁰.
 - November 22, 2017, SECY-17-0119, “Retrospective Review of Administrative Regulations,”¹¹ requests Commission approval of the staff’s strategy and screening criteria for the retrospective review, and approval of Federal Register announcement of the strategy and solicitation of stakeholder input.
- **2018 – Proposed Criteria for Screening Regulations In or Out of Review**
 - April 9, 2018: Commission issues SRM-SECY-17-0119¹², approving the staff’s proposed criteria with modifications.

⁵ Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2011/07/11/executive-order-13579-regulation-and-independent-regulatory-agencies>

⁶ The day following issuance of E.O. 13579, on July 12, 2011, the NRC published the near-term recommendations of its Fukushima Task Force report. During the months following, both NRC and industry expected those recommendations to lead to substantial new rulemaking.

⁷ 76 FR221, “Retrospective Review Under Executive Order 13579”, retrieved from <https://www.govinfo.gov/content/pkg/FR-2011-11-16/pdf/2011-29418.pdf>

⁸ 77 FR 70123, “Retrospective Review Under Executive Order 13579”, retrieved from <https://www.govinfo.gov/content/pkg/FR-2012-11-23/pdf/2012-28436.pdf#page=1>

⁹ “U.S. Nuclear Regulatory Commission Final Plan for Retrospective Analysis of Existing Rules”, January 24, 2014, ADAMS ML14002A441, also published in the Federal Register at 79 FR 9981.

¹⁰ NRC Office of Public Affairs, Press Release Number 17-036, “NRC to Review its Administrative Regulations”, August 11, 2017, ADAMS ML17243A126.

¹¹ SECY-17-0119, “Retrospective Review of Administrative Regulations”, August 11, 2017, ADAMS ML17286069, ML17286A070 and ML17286A071.

¹² SRM-SECY-17-0119: Retrospective Review of Administrative Regulations, April 5, 2018, ADAMS ML18096A553; SRM-SECY-17-0119, Encl. 1 - Edits to the Federal Register Notice, April 5, 2018, ADAMS ML18096A556.

Attachment - Timeline of the Retrospective Review Project

- May 3, 2018: Federal Register Notice (FRN) "Review of Administrative Rules," announces 60-day period for public comments on NRC's strategy and proposed criteria to be used to identify administrative regulations for possible elimination.¹³
- May 31, 2018: Public meeting¹⁴ on the FRN and solicitation of public comments on the proposed criteria.¹⁵
- July 2, 2018: Public comment period closed.
- November 16, 2018: Staff submits RROAR evaluation criteria for Commission review and approval, as directed by SRM-SECY-17-0119, in COMSECY-18-0027.¹⁶
- **2019 – Approval of Final Evaluation Criteria**
 - October 8, 2019: Commission approves final evaluation criteria.¹⁷
- **2020 – Public Comments on Applying the Evaluation Criteria**
 - February 4, 2020: NRC publishes Federal Register Notice seeking public comment on applying the final evaluation criteria to NRC regulations and seeking information on the burden of administrative requirements and how to reduce it.¹⁸
 - March 5, 2020: NRC public meeting on the Federal Register Notice and solicitation of public comments.¹⁹
 - March 24, 2020: NRC public meeting on the Federal Register Notice and solicitation of public comments.²⁰
 - May 6, 2020: Public comment period closed.
 - August 27, 2020: NRC public meeting to discuss NEI comments on the FRN.²¹
- **2021 – Staff Report to Commission**
 - April 2021: Expected staff delivery of COMSECY to Commission, reporting on the resolution of public comments received in 2020 and proposing next steps for the RROAR project
 - December 2021: Expected staff delivery of rulemaking plan to Commission covering RROAR-related changes to all affected administrative regulations in 10 CFR.
- **2022 and Beyond – Rulemaking**
 - On the project's current pace, rulemakings would not begin until 2022 or later.

¹³ Federal Register Notice, "Review of Administrative Rules", U.S. Nuclear Regulatory Commission, May 3, 2018, Federal Register Volume 83, pages 19464-19466.

¹⁴ "Summary of Retrospective Review of Administrative Regulations (RROAR) Public Meeting", May 31, 2018, ADAMS ML18170A135.

¹⁵ May 31, 2018 Staff Presentation on RROAR Draft Evaluation Criteria, ADAMS ML18170A136.

¹⁶ "Evaluation Criteria for Retrospective Review of Administrative Regulations", COMSECY-18-0027, November 16, 2018, ADAMS Package ML18227A120.

¹⁷ "Evaluation Criteria for Retrospective Review of Administrative Regulations", SRM-COMSECY-18-0027, October 8, 2019, ADAMS ML19281C697; and VR-COMSECY-18-0027, Commission Voting Record, October 8, 2019, ADAMS19281D713.

¹⁸ Federal Register Notice, "Retrospective Review of Administrative Regulations", 85 FR 6103, February 4, 2020, ADAMS ML20052D641.

¹⁹ "March 5, 2020 Public Meeting Summary of RROAR Initiative Public Meeting", ADAMS ML20069A022.

²⁰ "March 24, 2020 Public Meeting Summary of RROAR Initiative Public Meeting", ADAMS ML20085H593.

²¹ "August 27, 2020 Public Meeting on Retrospective Review of Administrative Requirements", ADAMS ML20264E691.