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POLICY ISSUE

(Information)

June 1, 2021

SECY-21-0056

FOR: The Commissioners

FROM: Margaret M. Doane
Executive Director for Operations

SUBJECT: EVALUATION OF STAKEHOLDER INPUT ON RETROSPECTIVE
REVIEW OF ADMINISTRATIVE REQUIREMENTS

PURPOSE:

The purpose of this paper is to inform the Commission of the staff's evaluation of the stakeholder input received on the Retrospective Review of Administrative Requirements (RROAR) initiative and the planned path forward.

BACKGROUND:

The purpose of the RROAR initiative is to identify potentially outdated or duplicative administrative requirements that the U.S. Nuclear Regulatory Commission (NRC) may modify or eliminate without an adverse effect on public health or safety, the common defense and security, protection of the environment, or regulatory effectiveness and efficiency. In the staff requirements memorandum (SRM) dated October 8, 2019 (Agencywide Documents Access and Management System (ADAMS) Accession No. [ML19281C697](#)), in response to [COMSECY-18-0027](#), "Evaluation Criteria for Retrospective Review of Administrative Regulations," dated November 16, 2018, the Commission approved the staff's recommended evaluation criteria for conducting the evaluation, subject to a change to Criterion 5. The Commission also directed the staff to proceed with seeking stakeholder input. On February 4, 2020, the staff published a 60-day notice of comment in Volume 85 of the *Federal Register* (FR), page 6103 ([85 FR 6103](#)),

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Enclosure 2 transmitted herewith contains Official Use Only–Sensitive Internal Information. When separated from Enclosure 2, this transmittal document is decontrolled.

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requesting public input on any potentially outdated or duplicative administrative requirements that may be modified or eliminated. As requested by the Nuclear Energy Institute (NEI), the NRC extended the public comment period to May 6, 2020 ([85 FR 18477](#)).

During the comment period, on March 5, 2020, and March 24, 2020, the staff held Category 3 public meetings to discuss the NRC's request for public input.¹ In addition, the NRC requested input from agency staff through various methods of internal outreach. The staff received comment submissions from NEI, agency staff, and a member of the public. On August 27, 2020, the staff held a Category 3 public meeting to seek clarification on the input received during the public comment period.²

DISCUSSION:

The NRC received a total of 99 individual comments, spanning all of the agency's program areas. To ensure a comprehensive and consistent evaluation, the staff established an agencywide working group and a steering committee to facilitate coordination and communication. To ensure consistency in the evaluation of the comments, including those with cross-cutting issues among different NRC programmatic areas (e.g., change processes similar to those in Title 10 of the *Code of Federal Regulations* Section 50.59, "Changes, tests and experiments," radiological effluent reports, security, emergency preparedness, etc.), the staff used a standardized review process developed for RROAR.

The staff applied the criteria³ as approved by the Commission in SRM-COMSECY-18-0027 to evaluate the comments. Further, per COMSECY-18-0027, the staff considered its programmatic experience, the intent of the requirement, the effect of elimination or modification of a requirement on the NRC's mission, and overall effect on resources, when applying the criteria. The staff determined that 54 of the 100 individual comments should be screened into the rulemaking process. Once screened in for rulemaking consideration, the staff organized the comments into three categories: (1) to be further evaluated in a new RROAR-related rulemaking (44 comments), (2) to be incorporated in an annual administrative corrections rulemaking (5 comments), or (3) to be further evaluated in ongoing rulemaking activities outside of the RROAR-related rulemaking(s) (5 comments).

For the comments that need further evaluation within the context of a new RROAR-related rulemaking effort, the staff plans to submit one or more coordinated rulemaking plans to the Commission for review and approval. In developing the rulemaking plan(s), the staff will apply the new [rulemaking decision guidance tool](#) and [rulemaking approach tool](#) (ADAMS Accession Nos. ML20266G457 and ML20266G456, respectively) to identify the most effective and efficient approach to addressing the rulemaking needs (such as determining whether a regulatory basis is needed). The staff anticipates that some of the comments would be addressed through a

¹ Summaries of the March 5, 2020, and March 24, 2020, public meetings can be found at ADAMS Accession Nos. [ML20069A022](#) and [ML20085H593](#), respectively.

² A summary of the August 27, 2020, public meeting can be found at ADAMS Accession No. [ML20264E691](#).

³ The Commission approved the following criteria: (1) routine and periodic recordkeeping and reporting requirements that the NRC has not consulted or referenced in programmatic operations or policy development in the last 3 years; (2) reports or records that contain information reasonably accessible to the agency from alternative resources that, as a result, may be candidates for elimination; (3) reports or records that could be modified to result in reduced burden without impacting programmatic needs, regulatory efficiency, or transparency; (4) recordkeeping and reporting requirements that result in significant burden; and (5) reports or records that contain information used by other Federal agencies, State and local governments, or federally recognized Tribes will be maintained, provided the information collected is necessary to support the NRC's mission or to fulfill a binding NRC obligation.

proposed notice-and-comment rulemaking process to provide ample opportunity for stakeholder engagement, while others, where the staff does not anticipate significant adverse comments, may be addressed through the direct-final rulemaking process.

The staff identified 46 comments that did not meet the Commission-approved criteria. Of those 46 comments, the NRC is taking no further action for 44 comments. However, in accordance with Commission direction in [SRM-SECY-17-0119](#), “Staff Requirements—SECY-17-0119—Retrospective Review of Administrative Regulations,” dated April 5, 2018, the staff has also identified two comments within this category (item #87 and item #94 in Enclosure 1, “Retrospective Review of Administrative Requirements Comment Evaluation Summary”) that will be considered for actions, as appropriate, outside of the RROAR initiative, and the staff provided these comments to those conducting the agency’s innovation and transformation efforts.

Enclosure 1 provides the comments received and the staff’s evaluation of these comments.

CONCLUSION:

For next steps, the staff plans to conduct the following actions:

- (1) Publish a *Federal Register* notice to inform the public of the outcome of the RROAR initiative. Enclosure 1 will be made publicly available and referenced in this notice, which will be sent for publication approximately 10 days after the date of this paper.
- (2) Began development of the associated rulemaking plan(s) in April 2021 for submission to the Commission. The staff estimates that it will provide the rulemaking plan(s) to the Commission at the end of calendar year 2021 (allowing approximately 8 months to develop them, including Agreement State participation in the rulemaking process in accordance with NRC guidance, “[Agreement State Participation in Rulemaking Working Groups SA-801A](#),” dated January 16, 2019).

RESOURCES:

Enclosure 2, “Resources” (non-publicly available), provides estimated resources for next steps on the RROAR-related rulemaking(s).

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection. The Office of the Chief Financial Officer has reviewed this paper and determined that it has no financial impacts other than those identified in Enclosure 2.

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Enclosures:

1. Comment Evaluation Summary
2. Resources (nonpublic)

SUBJECT: EVALUATION OF STAKEHOLDER INPUT ON RETROSPECTIVE REVIEW OF ADMINISTRATIVE REQUIREMENTS DATED June 1, 2021

ADAMS Accession No.: ML21016A000 Package: ML21013A026

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| DATE | 2/17/2021 | 2/18/2021 | 4/09/2021 | 4/26/2021 | 4/12/2021 |
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