

previously noted, this rulemaking is only risk-informing the scope of special treatment requirements. The process and requirements established in § 50.69 do not extend to making changes to the design basis of SSCs.

### III.3.3 RISC-4 Treatment

Section § 50.69 would not impose treatment requirements on RISC-4 SSCs. Instead RISC-4 SSCs are simply removed from the scope of any applicable special treatment requirements. This is justified in view of their low significance considering both safety-related and risk information. Any changes (beyond changes to special treatment requirements) must be made per existing design change control requirements including § 50.59 as applicable.

### III.4.0 Removal of RISC-3 and RISC-4 SSCs From the Scope of Special Treatment Requirements

RISC-3 and RISC-4 SSCs, through the application of § 50.69, are removed from the scope of specific special treatment requirements listed in proposed § 50.69. These requirements were initially identified in the ANPR based upon a set of criteria as to whether the regulation imposed requirements relating to quality assurance, qualification, documentation, testing, etc., that were intended to add assurance to performance of SSCs.

The special treatment requirements were originally imposed to provide a very high level of assurance that safety-related SSCs would perform when called upon with high reliability. As previously noted, the requirements include extensive quality assurance requirements, qualification testing requirements, as well as inservice inspection and testing requirements. These requirements can be quite demanding and expensive, as indicated in the data provided in the regulatory analysis on procurement costs. For those SSCs that this new categorization identifies as most safety-significant (RISC-1 and RISC-2), the existing special treatment requirements are being maintained because the Commission still desires a high level of assurance. However, the Commission concluded that for the less significant SSCs, it was no longer necessary to have the same high level of assurance that they would perform as specified. This is because some increased likelihood of failure can be tolerated without significantly impacting safety. Thus, the Commission decided to remove the RISC-3 and RISC-4 SSCs from those detailed, specific requirements that provided the very high level of assurance. However,

the functional requirements for these SSCs remain. As an example, a RISC-3 component must still be designed to withstand any harsh environment it would experience under a design basis event, but the NRC will not require that this capability be demonstrated by a qualification test. Further, the performance (and treatment) of these RISC-3 SSCs remain under regulatory control, but in a different way. Instead of the special treatment requirements, the Commission has set forth more general requirements by which a licensee is to maintain functionality. These requirements give the licensee more latitude in applying its treatment processes to achieve performance objectives. The more general requirements that the Commission is specifying for the RISC-3 SSCs include steps to procure SSCs suitable for the conditions under which they are to perform, to conduct performance and/or condition monitoring and to take corrective action, as a means of maintaining functionality. As discussed elsewhere in this notice, the Commission concludes that the requirements in § 50.69 maintain adequate protection of public health and safety. Hence, implementation of § 50.69 should result in a better focus for both the licensee and the regulator on issues that pertain to plant safety, and is consistent with the Commission's policy statement for the use of PRA.

In some cases, the Commission concluded that the RISC-3 and RISC-4 SSCs could be totally removed from the scope of specific special treatment requirements while in other cases the Commission concluded that only partial removal was appropriate. The reduced assurance for the RISC-3 SSC would be provided by the alternative requirements being added by this proposed rule. Finally, there was a set of requirements initially identified as special treatment for which the Commission is not proposing to remove RISC-3 and RISC-4 SSCs from their scopes. These requirements are discussed at the end of this section (III.4.9).

### III.4.1 Reporting Requirements Under 10 CFR Part 21 and § 50.55(e)

Section 206 of the Energy Reorganization Act of 1974 (ERA) requires the directors and responsible officers of nuclear power plant licensees and firms supplying "components of any facility or activity \* \* \* licensed or otherwise regulated by the Commission" to "immediately report" to the Commission if they have information that "such facility, activity, or basic components supplied to such

facility or activity either fails to comply with the AEA, or Commission rule, regulation, order or license "relating to substantial safety hazards," or contains a "defect which could create a substantial safety hazard \* \* \*." *Id.*, paragraph (a). Congress adopted Section 206 to ensure that individuals, and responsible directors and officers of licensees and firms supplying important components to nuclear power plants notify the NRC in a timely fashion of potentially significant safety problems or non-compliance with NRC requirements. The NRC then may assess the reported information and take any necessary regulatory action in a timely fashion to protect public health and safety or common defense and security. Congress did not include definitions for the terms, "components," "basic components," or "substantial safety hazard," in Section 206, but instead directed the Commission to promulgate regulations defining these terms.

The Commission's regulations implementing Section 206 are set forth in 10 CFR Part 21 and § 50.55(e) for license holders and construction permit holders, respectively. The definitions of "basic component," "defect," and "substantial safety hazard" in Part 21 were established by the Commission based upon the premise that the deterministic regulatory paradigm embedded in the Commission's regulations would continue to be the appropriate basis for determining the safety significance of an SSC, and therefore the extent of the reporting obligation under Section 206. This is most evident in the § 21.3 definition of "basic component," which is very similar to the definition of "safety-related" SSCs in § 50.2 (originally embodied in § 50.49). Part 21 also recognizes that Congress did not intend that every potential noncompliance or "defect" in a component raises such significant safety issues that the NRC must be informed of every identified or potential noncompliance or defect. Instead, Congress limited the Section 206 reporting requirement to those instances of noncompliance and defects which represent a "substantial safety hazard." Thus, Part 21 limits the reporting requirement to instances of noncompliance and defects representing "substantial safety hazard," which Part 21 defines as:

A loss of safety function to the extent there is a major reduction in the degree of protection afforded to public health and safety for any facility or activity licensed, other than for export, pursuant to parts 30, 40, 50, 60, 61, 63, 70, 71, or 72 of this chapter.