

reactor oversight process including the inspection program, and enforcement. In its final decision on this rulemaking, the Commission proposes to document its conclusions as to whether or not new or revised inspection or enforcement guidance is necessary. Public comment is requested on whether or not changes are needed in our inspection and enforcement programs to enable NRC to exercise the appropriate degree of regulatory oversight of these aspects of the facility operation.

VI.2.4 Operating Experience

One of the areas of uncertainty associated with this rulemaking has been the potential effects of changes in treatment on SSC reliability and common-cause failure potential. This is reflected in the requirement for evaluations (sensitivity studies) to provide reasonable confidence that any potential increase in risk would be small, with a basis provided for the factors to be assumed in these evaluations. Further, the rule requires the licensee to consider performance information to determine whether there are any adverse changes such that SSC unreliability values approach the values used in these evaluations, and to make necessary adjustments to the categorization and treatment processes. As discussed in Section VII.2, below, draft RG (DG-1121) provides some discussion about techniques that might be used in determining the factors for these evaluations. The Commission is interested in the role that relevant operational experience could play in reducing the uncertainty associated with the effects of treatment on performance and specifically seeks public comment as to what information might be available and how it could be used to support implementation of this rulemaking.

VII. Guidance

VII.1 Regulatory Guide and Implementation Guidance for § 50.69

The Nuclear Energy Institute (NEI) submitted a proposed implementation guide for this rulemaking in the form of NEI 00-04, "10 CFR 50.69 SSC Categorization Guideline." As part of the effort to develop the proposed rule, the NRC staff reviewed drafts of this document and in addition, NEI 00-04 was used in the pilot program discussed earlier. The objective of the staff's review was to determine the acceptability of the proposed implementing guidance with the intent that the NEI guidance could be endorsed in an NRC regulatory guide. The version

of NEI 00-04, dated June 28, 2002, forms the basis for the draft regulatory guide.

The NRC staff's review of NEI 00-04 resulted in several areas where the staff would find it necessary to identify exceptions to NEI guidance or to include further guidance to supplement the document, as it is currently written. These areas are discussed in an attachment to the draft regulatory guide, DG-1121, "Guidelines for Categorizing Structures, Systems and Components in Nuclear Power Plants According to Their Safety Significance." Through this document, the Commission is also seeking public comment on the DG and the identified issues. Comments should be submitted as discussed under the **ADDRESSES** section. Availability of this document is noted in Section X.

VII.2 Review Guidance Concerning PRA Quality and Peer Review

The NRC has prepared a draft regulatory guide DG-1122, "An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-Informed Activities." This guide provides guidance on the NRC position on voluntary consensus standards for PRA (in particular on the ASME standard for internal events PRAs) and industry PRA documents (e.g., NEI 00-02, "Probabilistic Risk Assessment Peer Review Process Guideline"). Further, this guide will be modified to address PRA standards on fire, external events, and low power and shutdown modes, as they become available. The NRC has also developed a draft supporting Standard Review Plan, SRP 19.1, to provide guidance to the staff on how to determine whether a PRA providing results being used in a decision is technically adequate.

In a letter dated April 24, 2000, NEI requested the NRC staff review the suitability of the peer review process described in NEI 00-02 to address PRA quality issues for this application. NRC issued a request for additional information on September 19, 2000, to which NEI responded by letter dated January 18, 2001. By letter dated April 2, 2002 (ADAMS accession number ML020930632), the NRC staff sent to NEI, draft staff review guidance that was developed as a result of its review of NEI 00-02, for intended use for § 50.69 applications.

The staff review guidance is for a focused review of the plant-specific PRA based on a review of NEI 00-02 and NEI 00-04. In order to reach the conclusion that the PRA results support

the proposed categorization, the review guidance is structured to lead the staff reviewer to either look for evidence that the impact of a given peer review issue on PRA results has been adequately addressed in the peer review report and, when necessary, has been identified for consideration by the IDP, or to request further information from the licensee.

VIII. Criminal Penalties

For the purposes of Section 223 of the Atomic Energy Act, as amended, the Commission is issuing the proposed rule to add § 50.69 under one or more of sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement. Criminal penalties, as they apply to regulations in Part 50 are discussed in § 50.111.

IX. Compatibility of Agreement State Regulations

Under the "Policy Statement on Adequacy and Compatibility of Agreement States Programs," approved by the Commission on June 20, 1997, and published in the **Federal Register** (62 FR 46517, September 3, 1997), this rule is classified as compatibility "NRC." Compatibility is not required for Category "NRC" regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the AEA or the provisions of Title 10 of the Code of Federal Regulations, and although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

X. Availability of Documents

The NRC is making the documents identified below available to interested persons through one or more of the following methods as indicated.

Public Document Room (PDR). The NRC Public Document Room is located at 11555 Rockville Pike, Rockville, Maryland.

Rulemaking Website (Web). The NRC's interactive rulemaking Website is located at <http://ruleforum.llnl.gov>. These documents may be viewed and downloaded electronically via this Website.

NRC's Public Electronic Reading Room (PERR). The NRC's public electronic reading room is located at www.nrc.gov/reading-rm.html.