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SUBJECT: Requests confirmation or final relief if necessary re
 position that would exclude from 4 h notification
 requirement in 10CFR50.72(b)(2)(vi) for situations in which
 util required to report certain min levels of radioactivity.

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WASHINGTON PUBLIC POWER SUPPLY SYSTEM

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June 15, 1993
G02-93-160

Docket No. 50-397

U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
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Washington, D.C. 20555

Gentlemen:

Subject: **SUPPLY SYSTEM NUCLEAR PLANT NO. 2
CLARIFICATION OF REPORTING OBLIGATIONS
UNDER 10CFR50.72(b)(2)(vi)**

The Washington Public Power Supply System ("Supply System") requests confirmation by the NRC, or formal relief if necessary, regarding a position that would exclude from the four-hour notification requirement contained in 10 CFR §50.72(b)(2)(vi) situations in which the Supply System is required to report certain minimum levels of radioactivity pursuant to an agreement with the State of Washington. For the reasons set forth below, we believe that this position is justified and consistent with the underlying intent of the regulation and relevant NRC guidance.

DISCUSSION

Regulatory Framework of NRC and Washington State Reporting Provisions

By regulation, nuclear power reactor licensees such as the Supply System are required to notify the NRC of certain non-emergency events. Specifically, 10 CFR §50.72(b) provides, in relevant part:

(2) Four-hour reports. If not reported under paragraphs (a) or (b)(1) of this section, the licensee shall notify the NRC as soon as practical and in all cases, within four hours of the occurrence of any of the following:

* * *

(vi) Any 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. Such an event may include an onsite fatality or inadvertent release of radioactively contaminated materials. [Emphasis added.]

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The State of Washington has implemented reporting requirements by agreement with the Supply System that demand, *inter alia*, notification to the Washington Department of Health ("WDOH") of off-normal measurements made by the Supply System's Radiological Environmental Monitoring Program. However, the State notification thresholds are generally substantially lower than the reporting limits required by NRC regulations (see 10 CFR Part 20, Appendix B) and are applicable to individual sample results as compared to the quarterly averages of interest to the NRC. The State notification levels are premised principally on an interest in potential variations from background levels so as to trigger possible further examination, rather than an immediate concern related to the public health and safety. The following chart provides a comparison of the State reporting limits and the NRC limits:

Nuclide	Water Samples ($\mu\text{Ci/L}$)			Sediment Samples ($\mu\text{Ci/Kg}$)		
	Approx LLD	WDOH Rpt Lvl	NRC* Rpt Lvl	Approx LLD	WDOH Rpt Lvl	NRC* Rpt Lvl
Co-60	10	100	300	30	2500	none
Cs-137	10	100	50	40	1000	none
I-131	1	1	2		2500	none
H-3	100	1000	30,000*			

* NRC reporting levels are quarterly averages. For drinking water, tritium is reportable at 20,000 $\mu\text{Ci/L}$.

As set forth in the chart, WDOH expects notification regarding individual measurements of radioactivity in the environment at levels generally far below the quarterly average measurements that are required to be reported to the NRC within 30 days of the respective thresholds being exceeded. However, the language of Section 50.72(b)(2)(vi) could be strictly interpreted to direct reporting to the NRC, within four hours, of every such notification made to the State. Because such a reading of this requirement appears at odds with the NRC's past and soon-to-be-issued revised guidance regarding Section 50.72(b)(2)(vi), the Supply System requests confirmation from the NRC of the appropriateness of its interpretation of this provision.

For the reasons set forth below, we propose that the NRC treat the Supply System's reporting to the State of such low-level radioactivity as a "routine report" not requiring a four-hour report to the NRC, and/or as a report involving low-level releases. These conditions are excluded from reporting under this provision by current, and prospective, NRC guidance, respectively. However, when the Supply System issues a press release in connection with instances of low-level radiation detection, or when we are informed by the State that a press release will be issued in connection with such radiation detection, the Supply System will follow the NRC's four-hour reporting requirement.

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The Purpose Of Section 50.72(b)(2)(vi) Is To Keep The NRC Informed Of Any Issue That Raises A Concern About Public Health And Safety.

a. Current NRC Staff Guidance

The Supply System believes that not filing four-hour reports in connection with the reporting of the very low levels of radioactivity required by the State of Washington is consistent with the purpose of the NRC's four-hour reporting rule. For example, Supplement 1 to NUREG-1022, dated February 1984, contains a summary of the questions and the NRC's responses in connection with the regional meetings that were held by the agency concerning reporting to the NRC. At that time the NRC was questioned about the reporting requirements contained in Section 50.72(b)(2)(vi). Specifically, the following exchange is recorded on pages 34 and 35 of the NUREG supplement:

5.1 I noted that "inadvertent" releases of radioactive material were stated in the rule as an example which would require a 4-hour notification irrespective of magnitude if a news release or notification to other government agencies is made. Is this correct?

Answer: The 50.72 4-hour notification was not for "routine" releases although they may be required to be reported to the State. However, a "routine" release which subsequently received media attention should be reported to the NRC in accordance with 50.72(b)(2)(vi). The key statement is "...event or situation related to the health and safety...." Where a State or other government entity has a requirement or agreement with an NRC licensee for routine reporting of other matters, the NRC only requires a report when that matter gets escalated to a "news release" of a "situation."

It is clear from this exchange that the NRC is concerned with receiving immediate reports in two situations: (1) where there is an event or situation that implicates health or safety or (2) where there is potential escalation of a matter by the media as a result of a news release such that the agency must be prepared to respond to inquiries in connection with any such media reports.

b. Proposed Revision to NRC Guidance

Further, in the Draft Rev. 1 to NUREG-1022, dated September 1991 ("Draft Revision"), the NRC made clear that the purpose of this reporting provision was "to ensure the NRC is made aware of issues that will cause heightened public or governmental concern related to the radiological health and safety of the public or on-site personnel or protection of the environment." See Draft NUREG-1022, Rev.1 at page 108. In the draft, the NRC also stated (on page 110) that "[p]lanned or low-level radiation releases are not specifically reportable under this criterion. However if a release receives media attention, the release can no longer be considered routine and the situation is reportable under these circumstances." While the Supply System might interpret this statement as resolving this issue because the levels that are required

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to be reported to the State qualify as "low-level," the statement is contained in a draft report and, therefore, cannot at this time be formally relied upon.^{1/} However, pending finalization of the revised NUREG, the Supply System proposes to follow the guidance for reporting pursuant to this provision as contained in the Draft NUREG-1022, Rev. 1 -- including the relevant examples contained therein.

The State's Reporting Requirements Are Not Related To Public Health And Safety; Rather, The State's Demand For Information Is For Monitoring Purposes.

It is important to note that the State does not view its reporting levels as implicating "health or safety" concerns. Indeed, in a letter to the Supply System, the WDOH reiterated that its reporting levels were established "below the NRC regulatory reporting requirements and were based upon pre-operational background data and State standards." See Letter from John L. Erickson, WDOH, to Joe Bell, Supply System, dated January 17, 1991 (attached hereto). The letter also states that:

The purpose of the practice [of reporting to the State] is to notify the DOH when a radionuclide concentration exceeds an ambient environmental level and to initiate an appropriate investigation by the Supply System and DOH. The investigation may include a comparison of recent DOH/Supply System split sample results, verifying laboratory procedures, reanalyzing sample, and analyzing for specific radionuclides. It may also trigger resampling and inquiries concerning non-Supply System causes of the elevated levels.

Thus the State views the Supply System reports as an indication of the possible need for further investigation into the facts and circumstances surrounding the radioactivity readings. Moreover, it is clear from the State's letter that the WDOH tracks this data in order to observe trends in radioactivity levels, regardless of the absence of any public health and safety implication. This type of information would not be of sufficient concern to the NRC to require the filing of a four-hour report. Accordingly, the conditions included in the State reports should be viewed as "low-level" releases excluded from reporting under the forthcoming revision to NUREG-1022.

Certainly, to the extent that a report to the State of a situation or event would implicate health or safety, the Supply System will inform the NRC in accordance with Section 50.72(b)(2)(vi). However, to the extent that routine sampling for radioactivity discloses levels that require notification to the State, but which are below the levels that require a report to the NRC, and

^{1/} Accordingly, the Supply System cites the Draft Revision here not as authority but for the insight it offers into the NRC's rationale for the 4-hour reporting requirement. The Supply System has closely examined the Staff's positions on the Draft Revision as set forth in the April 8, 1993 Federal Register Notice (58 FR 18167), and as discussed at the May 6, 1993 meeting on the same topic. It is the Supply System's impression that it is not likely that the Draft Revision will be changed substantively on this point. In the event NUREG-1022, Rev. 1, is materially revised with respect to this point when issued, the Supply System would revisit this issue with the NRC pursuant to the new guidance.

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neither the Supply System nor the State is planning to issue a press release on the levels, the Supply System should not be required to file a four-hour report to the NRC simply because of the requirement to notify the State.

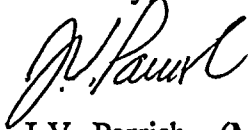
Accordingly, we propose to not report to the NRC those State notices premised on the above low-level radioactivity levels unless there is either a separate applicable reporting requirement or the Supply System is planning to issue a press release or is informed that the State is planning to issue, or has issued, a press release associated with the radioactivity levels.^{2/}

CONCLUSION

The Supply System believes that this proposal represents a reasonable interpretation of the reporting requirements contained in Section 50.72(b)(2)(vi) that is consistent with NRC Staff intent. The State of Washington has enacted reporting requirements that involve situations where there is neither a "health or safety" concern, nor any reporting in the press. Requiring the Supply System to file a four-hour report each time a State notification is required defeats the purpose of the regulation and simply adds -- contrary to NRC policy -- unnecessary reporting requirements. Further, the Supply System believes that filing such reports with the NRC dilutes the importance of the four-hour reporting requirement. Accordingly, we request your consideration and acceptance of the Supply System's proposal, as outlined herein. We request that the NRC provide written confirmation of its concurrence.

If you have any questions on this matter, please contact G.C. Sorensen at (509) 377-4027.

Sincerely,



J.V. Parrish, (MD-1023)
Assistant Managing Director, Operations

Attachment

cc: JB Martin - NRC RV
JH Reese - NRC RV
JW Clifford - NRC NRR
EL Jordan - NRC AEOD
DP Allison - NRC AEOD
RC Barr -NRC RI/901A
JL Erickson - WDOH
NS Reynolds - W&S

^{2/} The Supply System will also file a 4-hour report under this provision for a situation where a new release path is identified if such an identification results in levels of activity that also require a report to the State or if the identification is associated with other circumstances which require a report to the NRC.

Free 5/21/91

KRISTINE M. CEBBIE
Secretary

ERS 91-110

STATE OF WASHINGTON
DEPARTMENT OF HEALTH

January 17, 1991

Mr. Joe Bell, Manager
Washington Public Power Supply System
Health and Sciences Division
P. O. Box 968
Richland, Washington 99352

Dear Mr. Bell:

Last week we briefly discussed the background leading to the Supply System's practice of notifying the state when radioactivity in environmental samples was higher than expected. This letter is written to further clarify the state's understanding of this practice.

In a February 6, 1985 meeting, representatives from the Supply System, Department of Health, and EFSEC met and discussed, in part, a method for "flagging" data. The practice of reporting flagged data on an informal basis was adopted. In 1986, the practice was more formalized, levels were established for immediate notification of DOH by the Supply System. These levels were set below the NRC regulatory reporting requirements and were based upon pre-operational background data and state standards.

The purpose of the practice is to notify the DOH when a radionuclide concentration exceeds an ambient environmental level and to initiate an appropriate investigation by the Supply System and DOH. The investigation may include comparison of recent DOH/Supply System split samples results, verifying laboratory procedures, reanalyzing sample, and analyzing for specific radionuclides. It may also trigger resampling and inquiries concerning non-Supply System causes of the elevated levels.

The present notification practice is not specifically contained within the Site Certification Agreement. It exists as an understanding between the Supply System and the state of Washington, and was intended to be kept at the working level to promote communication. This practice provides for environmental program technology exchange and allows a timely assessment of ambient environmental quality. This current arrangement functions well and benefits both programs. We are currently revising the existing levels to more accurately reflect baseline levels.

Sincerely,

John L. Erickson, Head
Environmental Radiation Section

Rec'd 12/21/91 cgc

