

September 20, 2000

Mr. David J. Modeen
Director, Engineering
Nuclear Generation Division
Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, DC 20006-3708

Dear Mr. Modeen:

I am responding to your letters of August 10 and 18, 2000, concerning the disposition of industry comments related to the draft comprehensive fire protection regulatory guides that were issued for public comment in October 1999 (DG-1094) and April 2000 (DG-1097). In your letters, you stated your concern that the U.S. Nuclear Regulatory Commission (NRC) did not address the majority of the comments on DG-1094 that were provided by the Nuclear Energy Institute (NEI) in January 2000. I assure you that the staff considered all the comments received during the public comment period for DG-1094, and several changes to the draft were made as a result of that feedback. The staff is reviewing the comments received on DG-1097 and will give due consideration to those comments as well.

As you are aware, many of the comments on DG-1094 were related to the implementation of the active regulatory guide and the industry's backfit concerns with existing and new staff guidance contained in the draft rather than the specific technical content of the guide. The implementation and backfit issues, as well as the staff's positions on the limited technical comments received, were addressed during the public meeting on February 23, 2000, that was held to discuss the resolution of comments on DG-1094. These issues were also discussed by the NRC staff at the NEI Fire Protection Information Forum held in Philadelphia during June 2000. To address the implementation and backfit issues, the staff has stated on numerous occasions that the general information section of all NRC regulatory guides that contains the statement "Regulatory guides are not substitutes for regulations, and compliance with regulatory guides is not required" is adequate for resolving the implementation and backfit issues. Any backfits resulting from the use of the active guide or any other fire protection oversight activity by the staff will be imposed on licensees only in accordance with the requirements specified in 10 CFR 50.109.

In your August 10, 2000, letter, you also expressed concern regarding the incorporation of new guidance in the guide and suggested that the new guidance be compiled in a NUREG. In SECY-98-058, "Development of a Risk-Informed, Performance-Based Regulation for Fire Protection at Nuclear Power Plants," dated March 26, 1998, the staff proposed to the Commission that the comprehensive guide include new and revised guidance. This proposal was accepted by the Commission in a staff requirements memorandum (SRM) dated June 30, 1998. The staff reiterated the original intent of the guide, which is to resolve conflicts in the existing guidance and to include new guidance where the existing guidance is either weak or nonexistent, in SECY-99-152, "Status of Reactor Fire Protection Projects," dated

June 7, 1999, and in SECY-00-0055, "Status Report on the Comprehensive Fire Protection Regulatory Guide for Operating Reactors," dated March 2, 2000. In an SRM dated June 24, 1999, regarding SECY-99-152, the Commission advised the staff that it did not object to the staff's plan. Therefore, unless directed otherwise by the Commission, the comprehensive guide will include new and revised guidance as appropriate, as originally intended by the staff. As previously noted, compliance with regulatory guides or documents referenced in regulatory guides is not required.

In your August 18, 2000, letter, you requested an accounting of how the industry comments on DG-1094 and DG-1097 were considered. As noted previously during the public meeting on February 23, 2000, which your staff attended, the NRC staff discussed in detail its proposed resolution of the limited technical comments received from NEI on DG-1094. The comments concerning backfit and implementation were also addressed during that meeting as previously described. The staff will discuss the proposed resolution of the technical comments received on DG-1097 at the upcoming public meeting scheduled for September 21, 2000. This action should satisfy your request.

In your August 10, 2000, letter, you provided proposed revisions to Section D, "Implementation," and the associated paragraphs of Section A, "Introduction." Although these sections will not be changed as you have suggested, it will be made clear in the active version that the regulatory guide will be used by the staff and the industry as a consolidated comprehensive reference tool as it will be a compilation of methods acceptable to the staff for meeting the Commission's regulations. As such, the document is intended to reduce the effort necessary for all interested stakeholders in determining the best current practices in the complex area of nuclear power plant fire protection. Of course, nothing in this regulatory guide or any other regulatory guide changes a plant's licensing basis.

In your August 18, 2000, letter, you also requested that the guidance in DG-1097 on 10 CFR 50.59 reflect the industry position provided in NEI 96-07. As noted in DG-1097, the applicability of 10 CFR 50.59 to fire protection is being actively reviewed by the staff, and the final version of the guide will reflect the staff's position.

Thank you for your letters and your interest in fire protection. If you have any questions or require additional information, please contact Edward A. Connell at 301-415-2838.

Sincerely,

/RA/

Brian W. Sheron, Associate Director
for Project Licensing and Technical Analysis
Office of Nuclear Reactor Regulation

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David J. Modeen

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