UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
WASHINGTON, D.C. 20555-0001

SEPTEMBER 4, 2002

NRC REGULATORY ISSUE SUMMARY xxxxx PERFORMANCE OF MANUAL ACTIONS TO SATISFY THE REQUIREMENTS OF 10 CFR PART 50 APPENDIX R SECTION III.G.2

ADDRESSEES

All holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

INTENT

The U.S, Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to inform addressees of the planned rulemaking to allow the use of feasible manual actions to satisfy the requirements of 10 CFR Part 50, Appendix R, Section III.G.2 and to inform licensees of planned interim actions. No action or written response is required.

BACKGROUND INFORMATION

As a result of inspection findings, the staff became aware that some licensees had removed or derated the Thermo-Lag fire barrier material used to satisfy the separation criteria specified in 10 CFR 50, Appendix R, Section III.G.2. Section III.G.2 of Appendix R requires that, where redundant trains of cable or equipment, required for safe shutdown, are in the same fire area, the licensee shall 1) provide a three hour rated fire barrier; 2) provide a one hour rated fire barrier with detection and suppression or: 3) provide a twenty foot horizontal separation, with no intervening combustibles, with detection and suppression. If one of these options is not met then it allows the licensee to use Alternative shutdown described in Section III.G.3 of Appendix R.

The inspectors found that some licensees, as a permanent solution to the Thermo-Lag resolution issue, used a manual action instead of the options provided in the regulation without seeking prior staff approval. The staff conducted training on this issue with the regional inspectors on November 14, 2001. NEI requested, and was provided, a copy of the lesson plan by letter dated November 29, 2001 (ADAMS Accession ML0133703020). NEI reviewed the training and sent a letter to the NRC dated January 11, 2002 claiming that the training was guidance which constituted a backfit (ADAMS Accession ML020300069).

The staff responded to NEI in a letter on May 16, 2002 (ADAMS Accession ML021410026). Due to the backfit claim by NEI, the Office of the General Counsel (OGC) reviewed and had no

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legal objection to the staff response. The Committee to Review Generic Requirements (CRGR) reviewed the letter and met with the staff on February 26, 2002 and May 6, 2002 to discuss the contents of the response prior to issuance to NEI. The CRGR members concluded that the staff response did not contain new staff positions (ADAMS Accession ML021750218).

On June 20, 2002, the staff met with NEI to discuss industry concerns. NEI stated that industry's interpretation was that manual actions could be used in lieu of one of the separation criteria stated in Section III.G.2 of Appendix R. The industry presented the view that many otherwise safe and acceptable manual actions have been adopted by the industry and because of the widespread use of that interpretation, that it would be inadvisable to insist that an exemption, for pre-1979 plants, or staff reviewed deviations for post-1979 plants, be required. The staff expressed its interest in maintaining safety and acknowledged the mutual understanding that all manual actions need to be feasible and effective regardless of any compliance issue (ADAMS Accession ML021980448).

SUMMARY OF THE ISSUE

The NRC has documented multiple examples of approved manual actions in lieu of Appendix R, Section III.G.2 barriers in Safety Evaluation Reports (SERs) and exemption requests. These manual actions were typically simple manual actions, which were not immediate plant requirements. The licensees provided details to the reviewers that the actions were feasible when evaluated using the constraints of environment, analysis, staffing, and procedures.

In SRM xxxxxx, dated xx/xx/xxxx, the Commission approved the staffs proposed rulemaking to change Appendix R, Section III.G.2 to allow licensees to perform these analyses and to implement the manual action without prior NRC review or approval. This rulemaking would define generic criteria for feasible manual actions. It would also codify existing practice and would reduce regulatory burden by eliminating the need for and exemption or deviation from the staff. The adequacy of the licensees manual actions would be subject to review as part of routine NRC inspections.

In the SRM, the Commission also approved the staff's plan to develop an interim enforcement policy to exercise enforcement discretion related to the fire protection compliance issue pending completion of rulemaking. This interim enforcement policy will allow the staff to exercise discretion and refrain from taking enforcement action for those licensees that rely on unapproved manual actions, provided these licensees have demonstrated and documented feasibility of their manual actions in accordance with preliminary generic acceptance criteria similar to those in the attachment (recognizing that the final acceptance criteria might be modified during the rulemaking process). Although the staff has had numerous interactions with the industry on the manual action compliance concerns over the last year and discussed on a high level what constitutes feasible manual actions, there has not been a focus on the details of manual action criteria. Therefore, the staff intends to engage stakeholders in at least one public meeting to discuss the detailed manual action feasibility criteria and how they would be used in interim enforcement policy. Shortly after the public meeting, a specific interim enforcement policy will be submitted to the Commission for approval. If the Commission approves the interim enforcement policy, it will be published in the Federal Register together with a Regulatory Information Summary (RIS). The RIS will summarize for the industry and public the expected change in enforcement policy and where the agency is headed with fire protection rulemaking.

BACKFIT DISCUSSION

This RIS requires no action or written response and is, therefore, not a backfit under 10 CFR 50.109. Consequently, the NRC staff did not perform a backfit analysis.

FEDERAL REGISTER NOTIFICATION

A notice of opportunity for public comment was not published in the *Federal Register* because this RIS is informational.

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not request any information collection.

Please refer questions about this RIS to the technical contact identified below.

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Attachment:
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