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Subject: 30-DAY EXTENSION TO PUBLIC COMMENT PERIOD REGARDING POST-FIRE OPERATOR MANUAL ACTIONS

Chief, Rules and Directives Branch
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U.S. Nuclear Regulatory Commission
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REQUEST FOR A 30-DAY EXTENSION TO PUBLIC COMMENT PERIOD REGARDING POST-FIRE OPERATOR MANUAL ACTIONS IN LIEU OF NON-COMPLIANCE WITH 10 CFR 50 APPENDIX R SUBPART III.G.2

To The U.S. Nuclear Regulatory Commission:

The undersigned request that the NRC grants a 30 day extension, at minimum, to the public comment period for the "Draft Criteria for Determining Feasibility of Manual Actions To Achieve Post-Fire Safe Shutdown" (Federal Register, November 26, 2003, Volume 68, Number 228, Page 66501-66503).

SUMMARY: The U. S. Nuclear Regulatory Commission (NRC) is considering a revision to the fire protection regulations in 10 CFR part 50, appendix R, paragraph III.G.2 to allow the use of manual actions by nuclear power plant operators to achieve hot shutdown conditions in the event of fires in certain areas provided the actions are evaluated against specific criteria and determined to be acceptable. Currently, licensees who rely on operator manual actions which have not been reviewed and

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approved by the NRC are generally considered to be in non-compliance with NRC regulations. However, the NRC believes that manual actions relied upon by licensees are safe and effective when performed under appropriate conditions. Accordingly, until the fire protection regulations are revised, the NRC is planning to issue an interim enforcement policy to exercise enforcement discretion if licensees' manual actions meet the NRC's interim acceptance criteria. The NRC is seeking comments from interested parties on the adequacy and clarity of draft interim acceptance criteria which will be utilized by the interim enforcement discretion policy.

It is important to provide the public with at minimum a 30 day extension from the date of the Federal Register Notice, allowing the public a total of 60 days to comment, for three basic reasons.

- 1.. The draft deals with a very important public safety issue, fire protection for nuclear power reactors - substituting people (fire brigades) for physical protections to protect electrical cables from fire.
- 2.. The NRC has known about, and essentially ignored, licensee's non compliance with Subpart III. G.2 since 1992 and therefore there is no need to curtail public input in order for NRC to gain a few months to formally address the situation.
- 3.. The current comment period falls on our nation's major holiday periods -Thanksgiving and Christmas - diminishing public input.

Subpart III. G.2 - an important public safety issue:

Subpart III.G.2 currently is a requirement on the books to protect instrumentation, control and power cable trays and conduits that are used in systems to shut down the reactor in the event of fire. The regulation requires licensees to protect this shutdown equipment by 1) separation of redundant cable trays by 20 feet with no intervening combustibles; 2) an operable three-hour rated fire barrier and; 3) an operable one-hour rated fire barrier used in conjunction with sprinkler and smoke detector systems.

The change proposed in the draft involves the cables that connect the control room with pumps, valves and other equipment needed to safely shut a plant down.

Subpart III. G.2 required reactors to separate the control cables for redundant equipment, or install fire detection and suppression equipment or fire barriers, so a single fire could not disable all the cables. For many years licensees neglected to follow these rules by installing proper equipment; instead relying on fire

brigades - human intervention.

NRC's apparent response is to avoid enforcing these rules and instead draft new rules that accept letting the plants designate technicians who would run through the plant and operate equipment by hand if the control cables had burned away. This leads a reasonable person to question whether workers can get to the equipment, through heat, smoke, radiation, and steam that might be present in a fire.

Safety must be based on preparing for the worst case scenario and providing redundant systems - neither is satisfied in this proposal.

In addition, the commission's staff instead of going to the reactor site and evaluating whether this approach would be successful instead would rely on the reactor operators to draw up their plans, test them and keep the results on file for inspections conducted every three years by the commission's staff. The obvious flaws are the NRC relying on industry's self evaluation in a deregulated Markey place where industry focuses on keeping costs low; and NRC can not properly set up a simulator and test an operator action. You can't simulate smoke, fire, chaos, high radiation levels. Therefore, there is no way for NRC to effectively evaluate this safety system.

NRC aware non-compliance for many years - public needs enough time to become aware of and comment upon the issue

Going back to June 1992, the NRC has been aware of industry non-compliance with the fire regulations. In NRC Bulletin No. 92-01: "Failure of Thermo-Lag 330 Fire Barriers To Maintain Cabling in Wide Cable Trays and Small Conduits Free from Fire Damage," the NRC declared Thermo-Lag 330 fire barrier systems "inoperable" at 79 nuclear power stations nationwide. The fire barrier systems, themselves, were highly flammable. Instead of requiring that they upgrade or replace these inoperable fire barriers over electrical systems needed to shut down the reactor in the event of fire, as the regulations required, the licensees were allowed to substitute fire watches. This has become a long term and inappropriate substitute for NRC enforcement action.

Since 2000, in NRC Triennial Fire Inspections at nuclear power stations, NRC has catalogued widespread industry failure to comply with Appendix R III.G.2 stemming largely from the non-compliant operator manual actions used in lieu of upgrading or replacing Thermo-Lag 330 fire barriers [in some cases per NRC Confirmatory Action Orders] and/or failure to meet the 20-foot separation between redundant cable trays with no intervening combustibles.

The current comment period falls on our nation's major holiday periods -Thanksgiving and Christmas - diminishing public input.

The agency is unreasonably curtailing the opportunity for meaningful public comment on an issue vital to the protection of health, safety and the environment. The announced public comment period extends through two of the public's most celebrated holidays, beginning on the eve of Thanksgiving and ending on the day following Christmas. The public is not given sufficient time to adequately review and formulate meaningful comments.

Ample time for the public to comment is especially important because, as we understand, the draft interim criteria in the Federal Register notice is being considered by NRC as the draft language for a subsequent proposed rulemaking - rulemaking which the agency is seeking to expedite through the implementation of

a direct final rule.

According to statements made by NRC staff from the Policy and Rulemaking program before the NRC Advisory Committee on Reactor Safeguards Subcommittee on Fire Protection, a direct final rule is when "Essentially, you publish a proposed rule and a final rule at the same time." [1] If there are no significant adverse comments, then the final rule becomes effective. Hence it is unreasonable for NRC to issue this draft criteria for public comment with the expectation that a 30-day period is sufficient to receive meaningful public comment on criteria that will not only be used to issue Notices of Enforcement Discretion for long standing fire protection violations and subsequently be used as the pilot language to codify those same non-compliances as voluntary industry manual actions effectively replacing requirements of Subpart III.G.2 for rated and operable fire barriers, sprinklers and smoke detectors and sufficient separation of redundant cable trays with no intervening combustible materials.

We therefore respectfully request that NRC extends the public comment period by an additional 30 days to a total of 60 days.

Sincerely on behalf of the undersigned,

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[1] "Advisory Committee on Reactor Safeguards Fire Protection Subcommittee," U.S. Nuclear Regulatory Commission, Official Transcript, September 09, 2003, <
<http://www.nrc.gov/reading-rm/doc-collections/acrs/tr/subcommittee/2003/ip090903.pdf> > Operator Actions., p. 350, line 18-19.