

From: Charles Marschall, *CJM*
To: Clark, Jeffrey; Smith, Karla
Date: 9/30/02 8:07AM
Subject: FOR INFO - files for ANO meeting

Jett,

We'll use the attached file for the meeting at 10:30

Kara,

The file contains our talking points for the meeting with ANO tomorrow. We plan to make the file (up to, but not including the table) available as a handout. Please note that it only contains information taken directly from ANO's backfit claim letter to us, and our reply to them. It contains **ONLY** information already on the docket.

Charlie

5
92003-358

JT-18

ANO BACKFIT MEETING

On October 26, 2001, and again on January 17, 2002, we convened a backfit panel in accordance with NRC Management Directive 8.4, "NRC Program for Management of Plant-Specific Backfitting of Nuclear Power Plants," to review your backfit claim as stated in your letter of September 28, 2001. After careful consideration of your appeal, we have determined that (1) the NRC did not impose a regulatory staff position that is new or different from a previously applicable staff position relative to the requirements of 10 CFR Part 50, Appendix R, Section III.G.2; (2) the NRC did not approve the use of manual actions for complying with 10 CFR Part 50, Appendix R, Section III.G.2, in the Unit 1 diesel generator corridor and north electrical switchgear room in lieu of meeting the requirements of 10 CFR Part 50, Appendix R, Section III.G.2.a, III.G.2.b, or III.G.2.c; and (3) your methodology for using manual actions (in the event of a fire in the Unit 1 diesel generator corridor and north switchgear room), in lieu of ensuring that one train of redundant cables and equipment of systems needed for achieving and maintaining hot shutdown conditions was free of fire damage, does not comply with the requirements of 10 CFR Part 50, Appendix R, Section III.G.2. Your claim that our position (that manual actions cannot be used to comply with 10 CFR Part 50, Appendix R, Section III.G.2) is a generic backfit will be addressed by the NRC's Office of Nuclear Reactor Regulation in their response to a letter from the Nuclear Energy Institute dated January 11, 2002. (cover letter, 4/15/02 ltr, Merschhoff to Anderson)

i. NRC's Past and Present Positions Regarding the Use of Manual Actions for Meeting the Requirements of 10 CFR Part 50, Appendix R, Section III.G

In their letter dated September 28, 2001, Entergy stated that the NRC had accepted on many occasions, including at Arkansas Nuclear One (ANO), the use of manual actions for complying with 10 CFR Part 50, Appendix R, Section III.G.2. Entergy stated that NRC generic Appendix R guidance documents, the NRC's Triennial Fire Protection Inspection Procedure 71111.05, and recent NRC fire protection reports all supported this position.

Conclusion: The regulations, statements of consideration, and generic correspondence, as well as ANO-specific documentation, are in agreement concerning the use of manual actions for achieving and maintaining hot shutdown conditions as required in Section III.G of Appendix R to 10 CFR Part 50. As these documents show, the NRC has not in the past and does not currently consider manual actions to be acceptable for complying with 10 CFR Part 50, Appendix R, Section III.G.2, unless specifically reviewed and approved. The panel concludes that the position to disallow the use of manual actions for meeting 10 CFR Part 50, Appendix R, Section III.G.2 is not an imposition of a regulatory staff position interpreting the Commission rules that is either new or different from a previously applicable staff position. Therefore, this position is not a backfit specific to ANO. Entergy's claim that NRC inspection report statements constitute a basis for their backfit claim is addressed in Section IV of this enclosure.

ii. ANO's Position Regarding 10 CFR Part 50, Appendix R, Section III.G

In a letter dated September 28, 2001, Entergy summarized their positions concerning the use of manual actions as:

- "1. *The use of manual actions to operate necessary components . . . outside the identified fire areas is permitted by 10CFR50 Appendix R, Section III.G.1 and does not violate 10 CFR 50, Section III.G.2;*
- "2. *Compliance with 10CFR50 Appendix R, Section III.G.2 does not require protective features on circuits that are not required to function and, therefore, are not necessary systems required to achieve safe shutdown conditions and, regardless of fire damage cannot prevent the ability to achieve safe shutdown conditions."*

Conclusion: For the ANO plant, Entergy must meet the requirements of 10 CFR Part 50, Section III.G.1. In addition, where a fire area contains redundant trains of systems necessary to achieve and maintain hot shutdown conditions, Entergy must meet either Section III.G.2 or Section III.G.3 for the protection of cables and equipment associated with systems necessary for achieving and maintaining hot shutdown conditions, or obtain an exemption. Section III.G.2 provides three specific methods for preventing fire damage to equipment and cables associated with systems necessary for achieving and maintaining hot shutdown, and to circuits whose maloperation could adversely affect the licensee's ability to achieve hot shutdown. Section III.G.3 provides the option of using alternative or dedicated shutdown capability for those fire areas in which the licensee cannot meet the requirements of Section III.G.2. Therefore, the use of manual actions for meeting the requirements of Section III.G.2 is not permitted, unless these actions were specifically reviewed and approved by the NRC and documented in a safety evaluation report.

III. NRC Review and Approval of Manual Actions for Meeting the Requirements of 10 CFR Part 50, Appendix R, Section III.G in 14 Fire Zones at ANO

In their letter of September 28, 2001, Entergy stated that the use of manual actions to achieve safe shutdown conditions in the event of a fire has been a standard practice at ANO since the inception of Appendix R. In support of this position, Entergy cited an August 31, 1982, meeting between NRC and Arkansas Power and Light (documented by the NRC in a meeting summary dated September 3, 1982) and an Arkansas Power and Light response to an NRC request for additional information (RAI), dated October 5, 1982.

Conclusion: The NRC requested additional information from the licensee in the context of alternative shutdown (10 CFR Part 50, Appendix R, Section III.G.3) for 14 fire zones in which manual actions were credited. In their response to the request, the licensee did not identify Fire Zones 98J and 99M as requiring manual action, and did not request an exemption from Section III.G.2 for these two fire zones. As stated in a subsequent safety evaluation report concerning alternative shutdown, for all other areas, the NRC expected the licensee to either comply with Section III.G.2 or request an exemption. Therefore, the use of manual actions for achieving and maintaining hot shutdown conditions for Fire Zones 98J and 99M, was not reviewed and approved by the NRC.

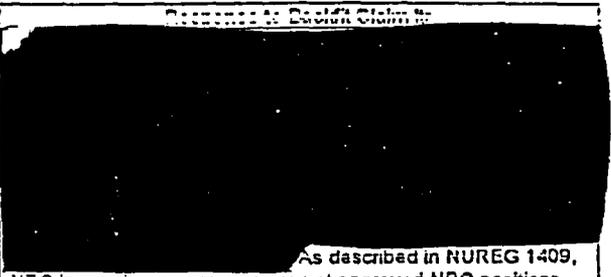
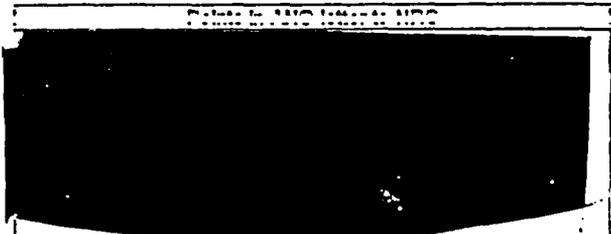
IV. NRC's Alleged Tacit Approval of the Licensee's Methodology for Complying with 10 CFR Part 50, Appendix R, Section III.G

In their letter of September 28, 2001, Entergy stated that in 1982, they submitted to the NRC a description of their methodology for complying with Appendix R, which included a statement that under certain conditions credit for manual operation of equipment was taken. Entergy also stated that because this statement was not challenged in subsequent NRC correspondence (such as inspection reports) or safety evaluation reports, this silence constituted tacit approval of the use of manual actions, thus, making it part of the ANO licensing basis.

As discussed in NUREG 1409, simply not challenging a licensee's practice in inspection reports would not be considered tacit approval. Furthermore, contrary to Entergy's claim, the NRC was not silent regarding the use of manual actions. In an August 31, 1982, meeting between NRC and Arkansas Power and Light Company, as documented by the NRC in a letter dated September 3, 1982, the NRC requested additional information for fire zones that required some sort of manual action or non-routine operation. Fire Zones 98J and 99M were not identified by the licensee as requiring manual actions. By this licensee omission, the NRC staff would have concluded that no manual actions would be credited for mitigating fires in Fire Zones 98J and 99M.

Conclusion: Even if, as Entergy claims, the NRC approved (tacitly or otherwise) the use of manual actions for meeting Section III.G.2 of Appendix R (which it did not), this approval would have been dependent on the licensee doing so under the conditions described in their Appendix R compliance methodology. However, for Fire Zones 98J and 99M, the licensee did not meet their own conditions set forth for the use of manual actions.

Ex 5



As described in NUREG 1409, NRC inspection procedures are not approved NRC positions.

In response to a question regarding whether NRC Inspection Manual guidance is considered an approved position, Section 3.3 of NUREG 1409, "Backfitting Guidelines," states, "No, inspection procedures are not approved staff positions, which is the reason they are not reviewed by CRGR." NUREG 1409 further states, "Licensees cannot be required to implement positions discussed in an inspection procedure or manual unless the same positions exist in the form of an approved regulatory staff position. Examples of approved staff positions are described in Manual Chapter 0514 and include the SRP [Standard Review Plan], branch technical positions, regulatory guides, generic letters, and bulletins."

"Section III.G.1. recognizes that some of the systems necessary to achieve shutdown may include emergency control stations in lieu of cables in the fire areas."

Section III.G.1 of Appendix R to 10 CFR Part 50 provides the overall fire protection objective to protect equipment so that in the event of a fire in any fire area, (a) one train of systems necessary for reaching hot shutdown conditions (from either the control room or emergency control stations) is free of fire damage; and (b) systems necessary for reaching cold shutdown conditions (from either the control room or emergency control stations) can be repaired within 72 hours.

Section III.G.2 of Appendix R to 10 CFR Part 50 provides three acceptable methods for ensuring cables and equipment associated with one train of systems necessary for achieving and maintaining hot shutdown conditions is free of fire damage. None of the three methods in Section III.G.2 describes the use of manual actions to mitigate the effects of a fire on safe shutdown equipment and cables. Rather, these methods have the objective of preventing fire damage through the use of specific protection features. Section III.G.2 also requires these same fire protection features for circuits whose damage (by fire) could adversely affect the accomplishment of safe shutdown functions:

E/S

E/S

Compliance with 10 CFR50 Appendix R, Section III.G.2 does not require protective features on circuits that are not required to function and, therefore, are not necessary systems required to achieve safe shutdown conditions and, regardless of fire damage cannot prevent the ability to achieve safe shutdown conditions.

The unprotected circuits (mentioned in the URI) associated with safe shutdown components are not part of the systems required to achieve safe shutdown conditions. Acceptable manual actions outside the fire area of concern provide the necessary control of systems required for safe shutdown. Analysis has shown that these associated circuits will not inhibit the ability of ANO-1 to reach a safe shutdown condition. Therefore, ANO is in compliance with III.G.2, and an exemption for the use of manual actions is not required.

Section III.G.2 of Appendix R to 10 CFR Part 50 provides three acceptable methods for ensuring cables and equipment associated with one train of systems necessary for achieving and maintaining hot shutdown conditions is free of fire damage. None of the three methods in Section III.G.2 describes the use of manual actions to mitigate the effects of a fire on safe shutdown equipment and cables. Rather, these methods have the objective of preventing fire damage through the use of specific protection features. Section III.G.2 also requires these same fire protection features for circuits whose damage (by fire) could adversely affect the accomplishment of safe shutdown functions.

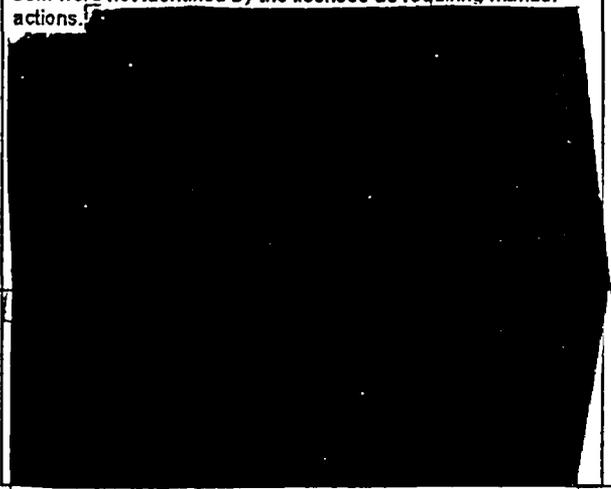
EXS



ANO submitted the use of manual actions for NRC review. The NRC did not challenge this methodology in subsequent correspondence or SERs. Based on this tacit approval, the use of manual actions became a part of the ANO licensing basis.

As discussed in NUREG 1409, simply not challenging a licensee's practice in inspection reports would not be considered tacit approval. Furthermore, contrary to Entergy's claim, the NRC was not silent regarding the use of manual actions. In an August 31, 1982, meeting between NRC and Arkansas Power and Light Company, as documented by the NRC in a letter dated September 3, 1982, the NRC requested additional information for fire zones that required some sort of manual action or non-routine operation. Fire Zones 98J and 99M were not identified by the licensee as requiring manual actions.

NRC inspection procedures and inspection reports from other licensees indicates that the NRC has previously taken a position consistent with current industry practices concerning the use of manual actions. Considering the previously accepted interpretation of Appendix R III.G.1 and III.G.2 requirements, ANO is in compliance and imposition of the new position should be considered a backfit that is generic to all plants.



EAS

(Cover letter) "After careful consideration of your appeal, we have determined that (1) the NRC did not impose a regulatory staff position that is new or different from a previously applicable staff position relative to the requirements of 10 CFR Part 50, Appendix R, Section III.G.2; (2) the NRC did not approve the use of manual actions for complying with 10 CFR Part 50, Appendix R, Section III.G.2, in the Unit 1 diesel generator corridor and north electrical switchgear room in lieu of meeting the requirements of 10 CFR Part 50, Appendix R, Section III.G.2.a, III.G.2.b, or III.G.2.c; and (3) your methodology for using manual actions (in the event of a fire in the Unit 1 diesel generator corridor and north switchgear room), in lieu of ensuring that one train of redundant cables and equipment of systems needed for achieving and maintaining hot shutdown conditions was free of fire damage, does not comply with the requirements of 10 CFR Part 50, Appendix R, Section III.G.2. Your claim that our position (that manual actions cannot be used to comply with 10 CFR Part 50, Appendix R, Section III.G.2) is a generic backfit will be addressed by the NRC's Office of Nuclear Reactor Regulation in their response to a letter from the Nuclear Energy Institute dated January 11, 2002.