



MEETING: NRC Staff Meeting with NEI on Manual Actions for Safe Shutdown
DATE: June 20, 2002 APPLICABILITY: BWR/PWR
NUMBER: MS-02-50 KEY SUBJECT: Fire Protection

Overview:

- The Staff agreed there is an issue regarding the use of manual actions to achieve safe shutdown that needs to be addressed. The issue has both a regulatory and a technical side. The regulatory side will be addressed either by an Office of General Counsel (OGC) interpretation which would permit manual actions without an exemption or a deviation or by a rule change to allow manual actions to be used as long as they are feasible and meet some criteria (to be determined). For the technical side, there is a need for additional guidance on what the Staff would find acceptable for manual actions and it is agreeable to working with industry to develop that guidance.

Background:

On January 11, 2002, NEI sent a letter to the NRC regarding the Staff's guidance provided to regional inspectors in November 2001 related to the use of manual actions to accomplish fire protection safe shutdown activities without prior NRC review and approval through the exemption and deviation processes. The industry position as stated in that letter is that the use of manual actions to achieve safe shutdown (both alternate and redundant) is acceptable, without prior NRC approval, as long as the reliance on manual actions does not adversely affect the ability of the plant to achieve and maintain safe shutdown. Licensees should be able to demonstrate that the actions can be carried out in the time frame and under the environmental conditions applicable to the actions.

On May 16, 2002, NRC responded to that letter, stating it agreed that 10 CFR 50.48 and Appendix R do not forbid the use of manual actions. With proper analysis, manual actions are allowed for fire safe shutdown activities under certain circumstances. However, the Staff disagrees with NEI regarding the generic use of manual actions to satisfy the requirements of Section III.G.2 of Appendix R; the use of manual actions in this context requires Staff approval through issuance of an exemption prior to implementation.

Discussion:

Suzanne Black opened the meeting, noting that if manual actions are feasible, done in a reasonable amount of time, and there are no specific hazards involved, the Staff is open to approving those manual actions. The issue, however, is whether an exemption or deviation is needed. Alex Marion responded that industry believes it is a generic issue and that NEI's discussion would demonstrate the extent to which many of the manual actions credited for fire actions in the past did not have NRC advance review and approval.

Fred Emerson, in presenting the use of manual actions for post-fire safe shutdown, noted that the

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goals for the meeting were to ensure the Staff gained an understanding of industry positions and rationale and that agreement could be reached on a pathway for resolving the generic issue. He presented the issue as: Whether the use of manual actions for redundant shutdown [III.G.2 of Appendix R] requires prior NRC approval. The industry position was provided in the January 11 NEI letter (see above under Background). Emerson noted there is a regulatory aspect and a feasibility aspect. With regard to the regulatory aspect, there has been long-standing Staff acknowledgement of redundant shutdown manual actions for compliance with the regulations as evident in regulatory guidance, plant-specific safety evaluation reports (SERs), numerous inspections, and plant-specific correspondence and meetings with the Staff. All of these together present a clear pattern over a long period of time of the acceptance of manual actions; however, since last November there seems to have been a policy change that conflicts with past practices accepted by the Staff. Promulgation of this policy change has been through inspection training guidance, which is inappropriate.

Emerson observed that the NRC's May 16 letter stated that inspectors do not set policy; however, he believes that they reflect policy. When an inspector takes certain positions, that reflects a known policy. Thus, industry believes that to all appearances, there was a clear policy change. Black commented that the failure of inspectors to note issues during an inspection does not constitute agency approval for non-compliance with a regulation. Emerson agreed but pointed out there has been a consistent pattern of an issue not being identified over the years; that suggests inspectors were following a policy understood by the Staff, i.e., the track record over the years indicated that there was a consistent policy regarding acceptance of manual actions that was understood. That consistent pattern has now changed.

With regard to the feasibility aspect of the industry position, Emerson suggested the use of manual actions for redundant shutdown is feasible when supported by appropriate analyses. Industry's understanding of the Staff's view is that use of redundant manual actions may not be feasible since a licensee may not be able to accomplish the actions within an acceptable time frame, manpower may not be available, and the environment may not be conducive to completing the action.

Emerson then provided an extensive list of regulatory requirements and regulatory guidance to support the industry position, pointing to applicable portions that touch on manual actions. His citations included selected portions of Appendix R, NUREG-0800 (Standard Review Plan), Generic Letters 81-12 and 86-10, RG 1.189, and a 1982 internal NRC memo, among others. NEI had also surveyed most of the plants to determine their usage of manual actions; the results indicate most plants use them to some degree and that numerous plants use them extensively. He provided details from eleven of the plants surveyed, including inspection results. For example, during triennial fire protection inspections at several of the plants, either there was no indication that lack of an exemption was an issue or, as in one case, the licensee was asked to prioritize the manual actions. In summary, Emerson noted that most plants use manual actions for redundant shutdown without exemptions or deviations and their implementation and feasibility has been reviewed by NRR on many occasions. The use of manual actions for redundant shutdown was not questioned by the NRC as a compliance issue until very recently.

Recommended actions suggested by Emerson included suspension of enforcement action pending issue resolution and revision of the inspection training information to reflect past Staff acceptance of industry practice.

At the conclusion of his presentation, which was seldom interrupted by Staff questions or comments, Black indicated the Staff would like to caucus. Upon their return, Black stated that the Staff agrees there is a situation that needs to be addressed. On the regulatory side, either OGC can provide an



interpretation that would permit manual actions without an exemption or deviation or the rule can be amended to allow manual actions as long as they are feasible and meet some [to be determined] criteria. To address the technical issues, she indicated there is a need for additional guidance as to what the Staff would find acceptable for manual actions; the Staff is agreeable to working with industry to develop that guidance. The Staff will not suspend enforcement except where the issue is the lack of an approved deviation or exemption. For those cases, it will review the adequacy of the manual action. Geary Mizuno clarified that the OGC interpretation will not be an "official interpretation" per 10 CFR Part 8 but it will be an interactive process between the Staff and OGC to see if it is possible to reasonably interpret the rule language such that manual actions would be permitted without the need to obtain an exemption or deviation. If that path doesn't work, then rulemaking will be pursued as expeditiously as possible, even to potentially using a direct final rule.

Black also noted that the Staff will review NFPA 805 to be sure it provides acceptable guidance for manual actions. Emerson stated that NEI 00-01 discusses manual actions and that guidance will be adjusted to be consistent with Staff positions as they are forthcoming.

In response to a utility representative's question concerning an existing potential enforcement action, once Black confirmed that it was based on lack of an approved exemption or deviation, she indicated the Staff would get back to the licensee on that.

Copies of a 14-page NEI vugraph are available upon request from the SERCH Staff.

Attendees

NRC Representatives:

Suzanne Black, Deputy Director, Division of Systems Safety and Analysis (DSSA), NRR
Eric Weiss, DSSA/NRR
Phil Qualls, DSSA/NRR
Joe Birmingham, Division of Regulatory Improvement Programs, NRR
Geary Mizuno, Office of General Counsel

Industry Representatives:

Alex Marion, NEI
Fred Emerson, NEI
Michael Bauser, NEI

A sizeable contingency of licensee representatives was also in attendance.

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