



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

September 12, 2003

9/15/03  
Jsh  
Lxc  
PF-SECY-03-0100

SECRETARY

MEMORANDUM TO: William D. Travers  
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary

SUBJECT: STAFF REQUIREMENTS - SECY-03-0100 - RULEMAKING  
PLAN ON POST-FIRE OPERATOR MANUAL ACTIONS

The Commission has approved the staff's recommendation to proceed with rulemaking, as described in Option 3, to revise fire protection program requirements contained in Appendix R of 10 CFR Part 50 and the associated guidance. In addition, the Commission has approved the staff's plan to develop an interim enforcement policy to deal with these compliance issues until the rulemaking is processed and the regulations and guidance are formally revised. The staff should leverage its past experience to develop the general acceptance criteria and expedite this rulemaking effort.

The staff estimate of 3 FTE to conduct the rulemaking and associated activities appears high for this relatively straightforward rule change.

The interim enforcement policy should be clear that it in no way obviates the need for licensees to continue documenting the technical feasibility of their operator manual actions. Likewise, the revised inspection guidance should ensure that inspections conducted during the interim period are done in an objective and consistent manner. Clearly, communications will be an essential component throughout this effort.

- cc: Chairman Diaz
- Commissioner McGaffigan
- Commissioner Merrifield
- OGC
- CFO
- OCA
- OIG
- OPA
- Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
- PDR

CHAIRMAN RFC'D  
03 SEP 12 PM 3:07

Q-2



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COMMISSION VOTING RECORD

DECISION ITEM: SECY-03-0100

TITLE: RULEMAKING PLAN ON POST-FIRE  
OPERATOR MANUAL ACTIONS

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of September 12, 2003.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

Annette L. Vietti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
OGC  
EDO  
PDR

CHAIRMAN REC'D  
03 SEP 12 PM 3:07

VOTING SUMMARY - SECY-03-0100

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. DIAZ	X				X	8/25/03
COMR. McGAFFIGAN	X				X	9/5/03
COMR. MERRIFIELD	X				X	9/4/03

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on September 12, 2003.

NOTATION VOTE  
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: CHAIRMAN DIAZ  
SUBJECT: **SECY-03-0100 - RULEMAKING PLAN ON POST-FIRE  
OPERATOR MANUAL ACTIONS**

Approved xx *(initials)* Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_  
Not Participating \_\_\_\_\_

COMMENTS:

See attached comments.

*(Signature)*  
\_\_\_\_\_  
SIGNATURE  
*(Date)*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

Chairman Diaz's Comments on SECY-03-0100

I am hopeful that the separate rulemaking effort to establish an alternative set of risk-informed, performance-based fire protection requirements will resolve the type of compliance issues addressed by this rulemaking. While I approve of the staff's proposal to address this specific area, i.e., post-fire operator manual actions, I am concerned that other similar fire-protection compliance issues may surface. I urge the staff to complete these rulemakings sooner rather than later.

The staff estimate of 3 FTE to conduct the rulemaking and associated activities appears high for this relatively straightforward rule change.

NOTATION VOTE  
RESPONSE SHEET

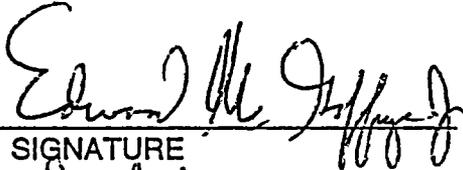
TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MCGAFFIGAN  
SUBJECT: **SECY-03-0100 - RULEMAKING PLAN ON POST-FIRE OPERATOR MANUAL ACTIONS :**

w/comments

Approved  Disapproved  Abstain   
Not Participating

COMMENTS:

See attached comments.

  
\_\_\_\_\_  
SIGNATURE  
September 5, 2003  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

**Commissioner McGaffigan's Comments on SECY-03-0100**

I join with my colleagues in approving the staff's recommendation to proceed to rulemaking to revise the reactor fire protection regulation and associated guidance (Option 3). Additionally, I approve both the staff's approach to develop interim enforcement policy and the prompt public release of the rulemaking plan to facilitate staff interactions with external stakeholders.

I agree with Chairman Diaz and Commissioner Merrifield that this rulemaking should be conducted in a timely manner.

*EMG*

NOTATION VOTE  
RESPONSE SHEET

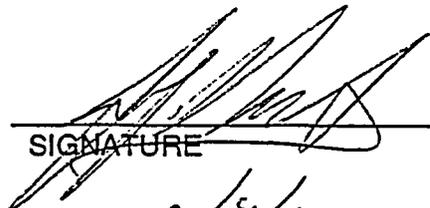
TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MERRIFIELD  
SUBJECT: **SECY-03-0100 - RULEMAKING PLAN ON POST-FIRE  
OPERATOR MANUAL ACTIONS**

Approved  Disapproved  Abstain

Not Participating

COMMENTS:

*See attached comment.*

  
\_\_\_\_\_  
SIGNATURE  
*9/5/03*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

Commissioner Merrifield's Comments on SECY-03-0100

I approve the staff's recommendation to proceed to rulemaking, under Option 3, to revise fire protection program requirements contained in Appendix R of 10 CFR Part 50 and associated guidance. In addition, I approve the staff's plan to develop an interim enforcement policy to deal with these compliance issues until the rulemaking is processed and the regulations and guidance are formally revised.

This rulemaking plan provides an excellent opportunity for interactions and insights from interested stakeholders on this important policy decision—the use of post-fire manual operator actions in lieu of fire barrier separation. Though the staff does not consider the use of unapproved operator manual actions an immediate safety issue, it may be viewed by some external stakeholders as such, and negatively impact public confidence. The interim enforcement policy should be clear that it in no way obviates the need for licensees to continue documenting the technical feasibility of their operator manual actions. Likewise, the revised inspection guidance should ensure that inspections conducted during the interim period are done in an objective and consistent manner. I understand NEI's concern, in its letter of August 18, 2003, with identifying "perfectly acceptable" manual actions as green inspection findings under the reactor oversight process and the green findings associated impact on public confidence. However, I believe that these findings can be appropriately articulated to provide the right safety perspective. Clearly, communications will be an essential component throughout this effort.

The criteria described in the rulemaking plan that have been used to assess past exemption and deviation requests involving post-fire operator manual actions provide a good foundation for the development of the acceptance criteria. The staff should leverage its past experience to develop the general acceptance criteria and expedite this rulemaking effort.



9/4/03