



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

December 2, 2003

Chief, Rules and Directives Branch
Division of Administrative Services
Office of Administration, Mail Stop T6-D59
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

By Email: nrcprep@nrc.gov

SUBJECT: 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 Whom It ~~May~~ Should Concern:

On behalf of the Union of Concerned Scientists (UCS), I request that the Nuclear Regulatory Commission (NRC) grant a 30-day extension to the public comment period as noticed in the *Federal Register* dated November 26, 2003, (Vol. 68, No. 228, pp. 66501-66503) with regard to "Draft Criteria for Determining Feasibility of Manual Actions To Achieve Post-Fire Safe Shutdown."

UCS requests the public comment period be extended to allow a total of 60 days to comment on the draft interim criteria to be used by the agency for the issuance of Notices Of Enforcement Discretion to nuclear power station operators who are in non-compliance with Code of Federal Regulation Chapter 10 Part 50 (10 CFR 50) Appendix R Subpart III.G.2 governing the protection of instrumentation, power and control electrical cables used for the safe shutdown of nuclear power stations in the event of fire. Subpart III.G.2 is a prescriptive requirement for protecting instrumentation, control and power cable trays and conduits 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 agency is unreasonably curtailing the public opportunity for meaningful comment on an issue vital to the protection of health, safety and the environment. First, 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 agency's poor choice of timing works against providing affected public communities living near non-compliant nuclear power reactors with sufficient time to adequately review and formulate meaningful comments. The existing 30-day public comment period is unreasonable and unfair, considering that the nuclear industry has literally had many years to comply with Appendix R and many months to work side-by-side with the NRC staff on the proposed draft criteria. It is unfair and unnecessary to impose a tight schedule on the public given the extremely loose schedule which the nuclear industry and the NRC staff have been following to date.

Washington Office: 1707 H Street NW Suite 600 • Washington DC 20006-3919 • 202-223-6133 • FAX: 202-223-6162
Cambridge Headquarters: Two Brattle Square • Cambridge MA 02238-9105 • 617-547-5552 • FAX: 617-864-9405
California Office: 2397 Shattuck Avenue Suite 203 • Berkeley CA 94704-1567 • 510-843-1872 • FAX: 510-843-3785

TT/5

The additional thirty days are needed by UCS and our colleagues around the United States to research the regulatory history for Subpart III.G.2 to Appendix R of 10 CFR Part 50. The bulk of the documentation forming this historical record pre-dates November 1999, when the NRC effectively shut down the Local Public Document Rooms (LPDRs). At that time, the NRC intended for its new Agencywide Document Access Management System (ADAMS) to replace the LPDRs. However, ADAMS is not an equivalent substitute by any stretch of the imagination. Prior to November 1999, I could go to the PDR and view hard copy records dating back to the 1970s. My colleagues could go to the LPDRs in their communities and view microfiche records dating back to the 1970s. During this research, when a retrieved document referenced another document, we could promptly retrieve and review that record to expeditiously pursue the entire document trail.

Public access to information was significantly impacted by the NRC's decision in November 1999. Now, my colleagues can access a bibliography of pre-1999 documents via the Public Legacy portion of ADAMS. They can place an online order for documents and receive copies in a few days via the US mail. When their review of the received documents points to additional documents, they can repeat the aforementioned process to slowly follow the document trail. Obviously, this new process entails much more time than the pre-1999 process in the LPDRs.

The post-1999 process combined with the post-09/11 changes also impedes my research in the PDR. In the good old days, I could conduct the vast majority of research in the PDR reviewing hard copy records. On rare occasions, I had to refer to microfiche records while pursuing a document trail. On those infrequent occasions, I could pull the applicable microfiche in the PDR and review them. Today, the PDR has very few hard copy records. The majority of research involves microfiche. But the post-09/11 security changes mean that I can no longer fetch my own microfiche. I have to request a microfiche card from an NRC librarian, who then goes to the file cabinets, pulls the applicable card and hands it to me. Given cutbacks in staffing levels, this librarian may not be readily available to pull the microfiche cards for me because she is on the phone with offsite PDR customers or out of the library tracking down a document for an online PDR customer. Pursing pre-1999 document trails is much, much slower for the public than it used to be.

Had the NRC staff bothered to assemble the applicable documents for the proposed rulemaking and placed them in the Publicly Available Records Section (PARS) of ADAMS, as it routinely does for license renewals, the public would not have to encounter the hardships imposed by the NRC's post-1999 and post-09/11 processes. The applicable documents would have been available for immediate viewing/downloading via ADAMS. With the applicable documents readily available, the original December 26, 2003, public comment period deadline would have been tight, but do-able. But few of the applicable documents are currently available in ADAMS PARS, forcing the public to go through the ADAMS-Legacy obstacle course. We need, and deserve, more time to negotiate the time-consuming path that the NRC deliberately established for us.

Sincerely,

<Original signed by>

David Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists
1707 H Street NW, Suite 600
Washington, DC 20006
(202) 223-6133
(202) 223-6162, fax