

EDO Principal Correspondence Control

FROM: DUE: 12/23/05 EDO CONTROL: G20050799  
DOC DT: 11/18/05  
FINAL REPLY:

Graham B. Wallis, ACRS

TO:

Chairman Diaz

FOR SIGNATURE OF : \*\* GRN \*\* CRC NO: 05-0566

Reyes, EDO

DESC:

Staff Recommendations to Withdraw the Proposed  
Rule on Post-Fire Operator Manual Actions

ROUTING:

Reyes  
Virgilio  
Kane  
Silber  
Dean  
Cyr/Burns  
Paperiello, RES  
Dixon-Herrity,  
OEDO  
ACRS File

DATE: 11/22/05

ASSIGNED TO: CONTACT:

NRR

Dyer

SPECIAL INSTRUCTIONS OR REMARKS:

Prepare response to ACRS for EDO signature. Add  
Commission and SECY as cc's.

USE SUBJECT LINE IN RESPONSE.

Template: SECY-017

E-RIDS: SECY-01

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

*Date Printed: Nov 22, 2005 10:12*

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**PAPER NUMBER:** LTR-05-0566 **LOGGING DATE:** 11/21/2005  
**ACTION OFFICE:** EDO

**AUTHOR:** Graham Wallis  
**AFFILIATION:** ACRS  
**ADDRESSEE:** Nils Diaz  
**SUBJECT:** Staff recommendation to withdraw the proposed rule on post-fire operator manual actions

**ACTION:** Appropriate  
**DISTRIBUTION:** RF

**LETTER DATE:** 11/18/2005  
**ACKNOWLEDGED:** No  
**SPECIAL HANDLING:**

**NOTES:**  
**FILE LOCATION:** ADAMS

**DATE DUE:** **DATE SIGNED:**



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS  
WASHINGTON, D. C. 20555

8044  
11-21-05  
JKA

November 18, 2005

05 NOV 21 PM 3:57  
CHAIRMAN REC'D

The Honorable Nils J. Diaz  
Chairman  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

SUBJECT: STAFF RECOMMENDATION TO WITHDRAW THE PROPOSED RULE ON  
POST-FIRE OPERATOR MANUAL ACTIONS

Dear Chairman Diaz:

During the 527<sup>th</sup> meeting of the Advisory Committee on Reactor Safeguards, November 3-5, 2005, we discussed the staff's recommendation to withdraw the proposed rule on post-fire operator manual actions. During our review, we had the benefit of discussions with representatives of the staff and the Nuclear Energy Institute. We also had the benefit of the documents referenced.

#### CONCLUSIONS AND RECOMMENDATIONS

- The proposed rule on post-fire operator manual actions would not satisfy the objective of significantly reducing the number of future exemption requests.
- We concur with the staff's decision to withdraw the proposed rule.

#### DISCUSSION

A proposed rule that would modify Appendix R of 10 CFR 50 to include the regulation of post-fire operator manual actions was issued for public comment on March 7, 2005. After evaluating the public comments, the staff concluded that the final rule would not achieve the objective of reducing the number of exemption evaluations required and that it should be withdrawn.

Section III.G of Appendix R provides requirements that assure the protection of at least one path of achieving safe shutdown during a fire at any location in the plant. Plants that received their licenses after 1979 are not subject to Appendix R, but comply with similar requirements. Because the plants to which Appendix R applies were constructed in the absence of standards addressing separation and protection, some fire areas contain equipment from more than one safe shutdown train. Section III.G.2 of Appendix R identifies three alternative means of protecting at least one train of safe shutdown equipment within a fire area:

- A 3-hour rated fire barrier (for fire areas outside containment)
- Separation by at least 20 feet with no intervening material, in combination with fire detection and automatic fire suppression equipment
- Enclosure of one train of equipment with a 1-hour rated fire barrier, in combination with detection and automatic fire suppression equipment.

November 18, 2005

Some plants have had difficulty in complying with Section III.G.2 and have sought exemptions in which operator manual actions compensate for an inability to satisfy one of the alternatives. Some plants relied on compensatory operator manual actions without receiving regulatory approval. To achieve compliance, either plants can obtain exemption from Section III.G.2 requirements or the requirements can be modified by rulemaking to cover those conditions for which manual actions represent an acceptable alternative. The staff developed the proposed rule for this purpose.

In our letter dated November 19, 2004, we recommended that the draft rule be published for public comment. In approving publication of the proposed rule, the Commission directed the staff to "engage stakeholders to get a clear understanding of the likelihood that the proposed rule would achieve its underlying purpose, including the number of plants for which the proposed rule would address the operator manual actions issue. This information should be considered in deciding whether to proceed to final rulemaking."

Comments were received from the public, licensees, and the Nuclear Energy Institute. Based on its evaluation of the comments, the staff has concluded that the proposed rule would not lead to a significant reduction in the number of exemption requests. We concur with the staff's recommendation to withdraw the proposed rule.

In the absence of the final rule, the staff will proceed with enforcement of the existing regulations and the case-by-case resolution of exemption requests. An alternative available to licensees is to transition to a risk-informed fire protection program under 10 CFR 50.48(c). Appendix R sets forth an established deterministic approach for assuring the ability to safely shut down a nuclear plant during a fire. However, when a licensee seeks an exemption from Appendix R, risk insights may be useful to determine that adequate safety is preserved.

Sincerely,



Graham B. Wallis  
Chairman

References:

1. Memorandum from J. Lyons, NRR, to J. Larkins, ACRS, dated October 28, 2005, "Proposed Withdrawal of Rulemaking Allowing Use of Post-Fire Operator Manual Actions," (ADAMS Accession No. ML052970102).
2. Letter from M. Bonaca, ACRS, to N. Diaz, Chairman, dated November 19, 2004, "Draft Proposed Rule on Post-Fire Operator Manual Actions," (ADAMS Accession No. ML043240215).
3. Memorandum from E. Merchoff acting for EDO, to M. Bonaca, ACRS, dated December 22, 2004, "Draft Proposed Rule on Post-Fire Operator Manual Actions," (ADAMS Accession No. ML043380177).
4. Staff Requirements, SECY-04-0233 - Proposed Rulemaking - Post-Fire Operator Manual Actions, January 18, 2005.