

EDO Principal Correspondence Control

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DOC DT: 09/28/07
FINAL REPLY:

Sherwood Martinelli
FUSE USA

TO:

Chairman Klein

FOR SIGNATURE OF : ** GRN ** CRC NO: 07-0666

DESC:

Indian Point
(EDATS: SECY-2007-0416)

ROUTING:

Reyes
Virgilio
Kane
Ash
Ordaz
Cyr/Burns
Collins, RI

DATE: 10/03/07

ASSIGNED TO: CONTACT:

NRR Dyer

SPECIAL INSTRUCTIONS OR REMARKS:

For Appropriate Action.

EDATS

Electronic Document and Action Tracking System

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OEDO Due Date: NONE

Other Assignees:

SECY Due Date: NONE

Subject: Indian Point

Description:

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AUTHOR: Sherwood Martinelli
AFFILIATION: NY
ADDRESSEE: Dale Klein
SUBJECT: Comments on proposed NRC actions

ACTION: Appropriate
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DATE DUE: **DATE SIGNED:**

EDO --G20070699

CHAIRMAN - Comments on proposed NRC actions.

From: <RoycePenstinger@aol.com>
To: <chairman@nrc.gov>, <fxc@nrc.gov>, <rsb1@nrc.gov>, <nas@nrc.gov>
Date: 09/30/2007 4:29:33 PM
Subject: Comments on proposed NRC actions.
CC: <geri_shapiro@clinton.senate.gov>, <Palisadesart@aol.com>, <ulrich@ulrichwitte.com>, <acer8sac@comcast.net>, <deb@nukebusters.org>, <info@ctgreenscene.org>, <garyfromvermont@yahoo.com>, <remyc@prodigy.net>, <ipsecsteer@yahooogroups.com>, <crotonshaw@optonline.net>

Dear NRC:

It has just come to my attention that the NRC intends to mutate an already existing exemption for the Indian Point 3 nuclear reactor...specifically, the proposed action would revise the January 7, 1987 safety evaluation (SE) to reflect that the installed Hemyc electrical raceway fire barrier system (ERFBS) configurations provide either a 30-minute fire resistance rating, or in one case a 24-minute fire resistance rating, in lieu of the previously stated 1-hour fire resistance rating. As Vice President of FUSE USA, I first and foremost disagree with the NRC's contention that said action of altering and already existing exemption poses no significant environmental affects. Any time a plant is allowed to LOWER it's safety level and/or standards, there is a quantum increase in the level of risk to human health and the environment. In this case, we have the NRC wanting to further lower standards that are already lower than those required by NRC Regs.

1. The January 7, 1987 SE granted Indian Point has already reduced safety margins, and contrary to the NRC's claims that post-fire-shutdown capability remains materially the same is not telling the WHOLE STORY.

2. Entergy was/is required as a part of their LRA to submit to the NRC a full list of all exemptions they wish to carry over into their new license should their License Renewal Application be granted. As a part of that list, Entergy was/is required to include a full and complete analysis justifying why they feel said exemption should be carried over into a new superceding license.

A) They have not abided by this section of the 10 CFR Part 54 rules fully and completely.

B) With each of these new alterations, such as this proposed exemption, the LRA gets more and more complicated. As example, I have only recently found out that the NRC granted Entergy a significant amendment to their license that substantially changes the DB as represented in their LRA. (Change of Tech Specs amendment is almost 400 pages in length.)

C) The exemption that the NRC is considering granting lowers and already lowered standard as relates to public health and safety, and the protection of our environment. It is necessary to gauge this change or alteration to the existing exemption not against the exemption now in place, but by the rule the exemption pertains too. If you look at the rule itself, and compare the exemption change to that, it becomes quite substantial.

D) No exemptions or relief should be granted any licensee during the period of LRA review, as it changes significantly the entire weighing process the public is going through in preparing our contentions, on what is or is not important moving forward with our considerations about plant safety, and license renew. We as stakeholders cannot hit a constantly moving target, and every relief, every amendment to the license, every exemption granted affects the whole, not just a singular part of it.

3. NRC Bulletin 92-01 further identifies that under certain fire conditions, the thermal degradation of inoperable electrical raceway fire barrier systems could lead to both trains of safe shutdown systems being damaged by fire. These inoperable fire barriers clearly include Thermo-Lag, HEMYC and MT fire barrier systems that are widely deployed throughout Indian Point. NRC Bulletin 92-01 concludes that these practices may significantly affect the plant's ability to achieve and maintain hot standby/shutdown conditions.

The continued existence of such conditions is in violation of the Indian Point 3 Current Licensing Basis. The already existing exemption has IP3 in violation of their CLB, and is an issue that MUST BE ADDRESSED before the site can be relicensed. This condition DOES affect the licensee's ability to safely shutdown and maintain the reactor, and this exemption mutation/alteration would further impinge on Entergy's ability to fulfill their obligation to have adequate safeguards in place too successfully and safely bring the reactor to a cold shut down, and that reality, the fact they are OUTSIDE OF THEIR CLB makes this alteration of the currently existing exemption worthy of and EIS.

Entergy, instead of seeking the required NRC safety analysis and approval through the exemption process, has substituted inadequate compensatory measures, such as unanalyzed, unapproved and therefore illegal operator manual actions that do little to reasonably and reliably assure that, in a manner consistent with other safety requirements, the probability and effects of

fire have been minimized to protect plant workers and the public when the safe shutdown of the plant is required in emergency situations. More disturbing, the NRC has in effect simply **BORROWED**, word for word from an EPRI study on this issue in creating their supposed justification for granting a change to the already existing exemption for the plant.

Contrary to promulgated regulations that Entergy is already **EXEMPT FROM**, in the event of a fire, these exemption changes, coupled with the original exemption allow for fire damage to destroy Entergy's ability to control the safe shutdown and maintenance of the reactor from the control room, and instead, attempt to compensate for this by expecting plant workers throughout the reactor complex to react perfectly, and to respond heroically. The workers would be, at every step of the way, hindered or halted by smoke, fire, radiation, or security risks and be required to manually operate circuit breakers, fuses and valves that are vital to safe shutdown and maintenance of the reactor. In many instances, the poorly thought out and granted current exemption at Indian Point, in the case of a fire will involve multiple actions requiring tools, keys, ladders and other equipment in critically time-sensitive and potentially life threatening situations where only heroic actions can prevent significant reactor core damage. This proposed action by the NRC, and the claim it presents no significant environmental risk is the perfect example of NRC licensees pocketbooks being given priority over human health, public safety and the environment.

4. Spurious-of falsified or erroneously attributed origin : **FORGED** b : of a deceitful nature or quality <spurious excuses>

I post this dictionary meaning of the word spurious for a reason. In an EPRI document on this very subject, they state, not once but twice (as relates to guidance for the industry) they (EPRI) are giving guidance and suggested analysis to help do a post fire analysis based upon such factors as spurious use of equipment.

What an interesting, and extremely disturbing choice of verbiage on the part of EPRI. Here is the entire skinny on EPRI's suggested guidelines from this stakeholders perspective. If you know particular circuits and/or wiring systems are problematic, figure out a formula whereby you can justify removing them from the matrix that counts toward meeting your fire requirements. It takes me back to college. I had professors who would allow us, after the tests had been graded, to argue our answers or his, and if we presented a good case, the question would be thrown out, thus raising our own grade. I am very good at presenting sound arguments, even when it was obvious what the right answer was. As a result, the few questions I missed in a test I was able to have successfully tossed. The difference here is simple...I was arguing to get an A+ instead of an A on a test, while Entergy is trying to toss out safeguards meant to protect human health and safety.

5. On July 16th, 2004 as a part of the NRC changes to their fire protection requirements, it was decided that **ANY CHANGES** to a licensee's fire protection plans would require a "Change Evaluation". A change in any aspect of a licensee's fire plan (including exemptions) changes literally every aspect of the fire protection plan and schematics. In short, the proposed change would require that the licensee conduct a change evaluation on their **ENTIRE FIRE PROGRAM** at the Indian Point plant, and this issue has not been adequately addressed.

NEI 04-02 attempts to mitigate NRC's requirement of a "Change Evaluation" by writing guidance that narrows the scope of when a licensee must conduct a "Change Evaluation". However, the NRC's 2004 edict states otherwise. It specifically states, that a "Change Evaluation" is required for any change or modification to and already approved part of a licensee's fire plan. As the Proposed Action announcement points out, the NRC wants to grant a modification to and already granted/approved part of Entergy's fire plan for IP3. Therefore, it is imperative before such a change is granted, that Entergy must conduct a full and complete "Change Evaluation" of their entire fire plan for IP3 with full and complete public involvement in the process.

Therefore, we contest the NRC's view that this exemption change would not constitute a significant environmental risk, would not significantly elevate risk scenarios as relates to and incident involving a fire at Indian Point. We therefore request the following actions be granted in part or whole in this action.

1. The exemption be denied, and/or
2. Entergy be ordered to complete a full and complete "Change Evaluation" of their entire Indian Point Fire Plan before this exemption be considered ripe for action on the part of the NRC, and/or
3. The NRC order a complete EIS as relates to this proposed action.

Respectfully,

Sherwood Martinelli
Vice President of FUSE USA
351 Dyckman Street
Peekskill, New York 10566
914 293-7458

For those on this CC list. I have taken the liberty of pasting below the NRC notice on this action. We have only **TEN DAYS** to oppose it. So, please post this to any and all of your email trees and list serves.

Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Unit No. 3; Environmental Assessment and Finding of No Significant Impact

Friday, September 28, 2007; Posted: 08:50 AM

Sep 28, 2007 (FIND, Inc. via COMTEX) -- [ETR](#) | [charts](#) | [news](#) | [PowerRating](#) -- The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a revision of existing exemptions from Title 10 of the Code of Federal Regulations (10 CFR) part 50, appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," for Fire Areas ETN-4 and PAB-2, issued to Entergy Nuclear Operations, Inc. (the licensee), for operation of Indian Point Nuclear Generating Unit No. 3 (IP3), located in Westchester County, NY. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the January 7, 1987 safety evaluation (SE) to reflect that the installed Hemyc electrical raceway fire barrier system (ERFBS) configurations provide either a 30-minute fire resistance rating, or in one case a 24-minute fire resistance rating, in lieu of the previously stated 1-hour fire resistance rating. The licensee states that a Hemyc ERFBS fire resistance rating will provide sufficient protection for the affected raceways, with adequate margin, to continue to meet the intent of the original requests for exemption and conclusions presented in the NRC's January 7, 1987, SE. The licensee concludes that the revised fire resistance rating of the Hemyc ERFBS does not reflect a reduction in overall fire safety, and presents no added challenge to the credited post-fire safe-shutdown capability which remains materially unchanged from the configuration originally described in previous letters and as credited in the January 7, 1987, SE.

The proposed action is in accordance with the licensee's application dated July 24, 2006, as supplemented by letters dated April 30, May 23, and August 16, 2007.

The Need for the Proposed Action

The proposed revision of existing exemptions from 10 CFR part 50, appendix R, is needed in response to NRC Information Notice 2005-07. The information notice provided licensees the details of Hemyc ERFBS full-scale fire tests conducted by the NRC's Office of Nuclear Regulatory Research. The test results concluded that the Hemyc ERFBS does not provide the level of protection expected for a 1-hour rated fire barrier, as originally designed. The proposed revision to existing exemptions would revise the fire resistance rating of Hemyc ERFBS configurations.

Environmental Impacts of the Proposed Action

The NRC has completed its SE of the proposed action and concludes that the configuration of the fire zones under review provide reasonable assurance that a severe fire is not plausible and the existing fire protection features are adequate. The details of the staff's SE will be provided in the exemptions that will be issued as part of the letter to the licensee approving the exemption. Based on the presence of redundant safe-shutdown trains, minimal fire hazards and combustibles, automatic cable tray fire suppression system, manual fire suppression features, fire barrier protection, existing Hemyc configuration, and the installed smoke detection system, the NRC staff finds that the use of this Hemyc fire barrier in these zones will not significantly increase the consequences from a fire in these fire zones.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site.

There is no significant increase in the amount of any effluent released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for IP3, dated February, 1975.

Agencies and Persons Consulted

In accordance with its stated policy, on February 13, 2007, the NRC staff consulted with the New York State official, Alyse Peterson of the New York State Energy Research and Development Authority, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 24, 2006, Agencywide Documents Access and Management System (ADAMS) accession number ML062140057, as supplemented on April 30, 2007, ADAMS accession number ML071280504, May 23, 2007, ADAMS accession number ML071520177, and August 16, 2007, ADAMS accession number ML072400369. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR),

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located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or send an e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 24th day of September 2007.

For the Nuclear Regulatory Commission.

John P. Boska,

Senior Project Manager, Plant Licensing Branch I-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

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