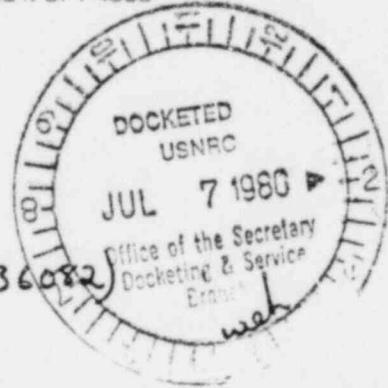




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DOCKET NUMBER
PROPOSED RULE PR 50 (45 FR 36082)

Mr. Samuel J. Chilk
Secretary of the Commission
ATTN: Docketing & Service Branch
U. S. Nuclear Regulatory Comm.
Washington, D. C. 20555

SUBJECT: Comments on Proposed Rulemaking
"Fire Protection Program for Nuclear Plants
Operating Prior to January 1, 1979"
(45 Fed. Reg. 36082, May 29, 1980)

Dear Mr. Chilk:

On May 29, 1980, the Commission published in the Federal Register (45 FR 36082), a proposed rule on fire protection, 10 CFR 50.48, and its supporting Appendix R. Arkansas Power & Light Company as a licensee of two nuclear units wishes to provide the following comments on this proposed rule.

We regret that a mere 30-day comment period was provided by the NRC, and consider that time constraint both unreasonable and unnecessary. It simply did not provide us with ample time to evaluate fully the proposed regulations and to prepare meaningful and specific comments on time. Nevertheless, we will here provide general comments on the proposed regulations.

We believe that there are two fundamental deficiencies in the proposed regulations. The first relates to the substantive and procedural due process implications in this attempt by the NRC to impose license modifications on all licensees without affording them the opportunity to protect their interests from a legal standpoint. Specifically, the NRC is attempting to impose backfitting requirements on licensees without developing an adequate factual record on a plant-specific basis and without making the findings necessary under 10 CFR 50.109 that the backfit "will provide substantial, additional protection which is required for the public health and safety or the common defense and security."

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After proceeding on a case-by-case basis in the development of plant-specific design changes for fire protection systems over the past few years, the NRC now is attempting to mandate binding regulations on all licensees on a generic basis. We submit that this is illogical regulatory practice and has no justification in prudent regulatory policy. If (as we suspect) the NRC is contemplating the proposed fire protection regulations as a means of resolving outstanding items which may exist between the Staff and certain licensees, we submit that the more reasonable approach would be to issue orders pursuant to 10 CFR 2.204 on an individual plant basis. This would comport with fundamental fairness and would provide the NRC with the factual record necessary either to support the order to backfit or to determine that the backfit is unnecessary.

The distinction which must be recognized here is that the proposed regulations are retrospective and will require licensees with operating power reactors to engage in major backfitting. They are not merely prospective. As such, the NRC must exercise its discretion in formulating a regulatory approach with much more sensitivity and recognition of legal rights than is demonstrated in the proposed regulations. The need for restraint and fair treatment is even more necessary and appropriate where (as here) the agency seeks to swing radically from an on-going case-by-case review and backfit approach to a generic regulation applicable to all licensees regardless of plant design. We submit that such arbitrary and heavy-handed regulation flies in the face of administrative due process and should be ceased.

Accordingly, AP&L requests that the Commission withdraw from the proposed regulations those aspects of Appendix R which require development of specific factual bases prior to imposition. For Arkansas Nuclear One, ("ANO"), those aspects are Alternate Shutdown Capability (III.L), Reactor Coolant Pump Lubrication System (III.P) and Associated Circuits (III.Q). If the NRC seeks to impose these aspects on ANO, they should be the subject of an order pursuant to 10 CFR 2.204 and the opportunity for hearings to develop a factual record on their feasibility, need, margin of safety provided, and costs. While the hearings should be geared to the individual plant, we recognize that generic hearings may be necessary and appropriate in the interests of administrative efficiency and resource allocation. As to the remaining requirements proposed in Appendix R, the following comments pertain.

In many cases the proposed rule sets forth new requirements not previously found in fire protection regulations. In other cases the proposed rule readdresses and establishes new requirements for many issues previously documented as having been resolved by the staff and the licensee. AP&L has received a Safety Evaluation Report from the NRC staff documenting our compliance with fire protection criteria for both our units. The proposed rule reopens and/or modifies many issues which, if imposed, will necessarily require us to divert significant manpower from other higher priority items such as TMI issues.

The proposed rule is written in an overly specific fashion. Historically, NRC rules have stated specific objectives to be met and the detailed design and/or implementing procedures to meet those objectives have been the responsibility of the licensees. The proposed Appendix R does not conform to this practice and, therefore, unnecessarily increases the difficulty of meeting those requirements. One of the lessons that we should have learned from the TMI accident is that when the regulators set minimum requirements which specify every detail and require a major effort to comply, particularly when imposed with unrealistic schedules, by necessity, the licensee can merely comply with the requirement and is unable to design a system that best meets the safety requirement for his unique situation.

Another important issue raised in the proposed rule is the apparent requirement to consider fires simultaneously with other accidents. This is brought out in the requirements which apply to structures, systems and components "important to safety". Although all previously issued guidelines on fire protection matters state that fires need not be postulated to be concurrent with non-fire related failures in other systems, other plant accidents, or the most severe natural phenomenon, this regulation does not contain that definition and needs to be clarified to be consistent.

The proposed rule as written requires each licensee to have either alternate shutdown capability or a dedicated shutdown capability. This requirement seems quite unreasonable given the protection in depth which already exists in the design and construction of the fire protection system and conformance with existing fire protection criteria. In evaluating the imposed safety associated with having either an alternate or dedicated shutdown capability, one must realistically consider the type and quality of fire fighting equipment available at the plant to fight a fire in an area in which, if a fire were left unmitigated, would require an alternate shutdown capability to control the plant.

The Fire Hazard Analysis section of Appendix R has several major problems. As discussed previously, fire protection requirements should apply to the ability to attain and maintain safe shutdown and not consider other events simultaneous with fires. The NRC should also recognize that for a plant that is already built and in operation, major modifications are often difficult to implement and may possibly detract from overall safety. Such modifications must be studied and designed carefully. The requirement for installation, maintenance, or testing to be done only by personnel qualified in fire protection is clearly inappropriate. Fire protection pumps, motors, etc. need upkeep just like similar safety and non-safety related components; however, this can be accomplished by properly trained personnel who have not necessarily received a fire protection "stamp of approval".

Several requirements are ambiguous as to what criteria or who determines sufficiency, such as "large" group of electrical cables, "insufficient separation" or where safe shutdown cannot be "insured". In these cases, the fire hazards analysis and previously agreed upon acceptance criteria should be used to determine adequacy.

Again, it cannot be stressed enough that a rule is a document that every licensee has to live by. Taking this into account, the rule must just state the objectives to be met and provide acceptable closure to the issue. This rule, as proposed, does neither. The detailed design and/or implementing procedures should be left to the licensee. This will accomplish the most effective and the safest fire protection system for each licensee.

The second deficiency relates to the implementation schedule set forth in the proposed regulations. That schedule would require that all fire protection modifications (except for alternate or dedicated shutdown capability) be completed by November 1, 1980, and that alternate or dedicated shutdown capability be implemented by April 1 or December 1, 1981, respectively. We believe that there is absolutely no health, safety or other basis for such a rigid and short implementation schedule, and that the schedule should be revised to incorporate reasonable and realistic completion dates for the various activities which must be performed. These completion dates should reflect the difficulty which licensees are experiencing and will experience with hardware procurement, should consider the costs and benefits of unscheduled downtime which likely will be associated with attempting to meet the implementation schedule proposed, and should account for the large number of Three Mile Island-related safety requirements with which licensees are in the process of complying.

In sum, AP&L believes that there are serious legal and regulatory policy implications inherent in the manner in which the NRC is approaching the development of fire protection regulations. Licensees with operating power reactors have been modifying their fire protection systems on an orderly and reasonable course which was designed to upgrade fire protection systems on a plant-specific basis. The radical departure from this orderly process is unnecessary and arbitrary. The NRC should therefore conduct either generic hearings in the context of rulemaking on the items discussed above, or hearings on specific reactors pursuant to 10 CFR 50.109 and 2.204. In addition and in any event, the NRC should revise the implementation schedule in the proposed regulations to one which is realistic and reasonably attainable.

Very truly yours,

David C. Trimble

David C. Trimble
Manager, Licensing

DCT/JTE/lp