

EDISON ELECTRIC INSTITUTE

The association of electric companies

1111 19th Street, N.W.
Washington, D. C. 20036
Tel: (202) 828-7400

DOCKET NUMBER

PROPOSED RULE

PR 50

45 FR 36082 October 15, 1980

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The Honorable John F. Ahearne
Chairman
Nuclear Regulatory Commission
Washington, DC 20555

ACKNOWLEDGED by card... 10/16/80...

Dear Mr. Chairman:

Subject: Proposed Rule on Fire Protection Programs for
Nuclear Power Plants Operating Prior to
January 1, 1979: SECY-80-438A, 10 CFR Part 50
and Appendix R.

The Edison Electric Institute (EEI) would like to take this opportunity to summarize the industry position on these most important proposed Fire Protection Regulations. EEI, the national association of the investor-owned electric utility industry, serves 99 percent of all customers of the investor-owned segment of the industry and 77.5 percent of all users of electricity in the United States. Many of our member companies generate a portion of their customers' electric energy needs with nuclear power facilities.

To date the Institute has provided comments and testimony on behalf of our members to the NRC staff, to the Advisory Committee on Reactor Safeguards' (ACRS) Subcommittee on Fire Protection and to the full ACRS.

We are heartened by the staff's response in most respects to our comments and those of other participants, as reflected in SECY-80-438A. In particular, if the Commission feels compelled to issue a regulation, we support the staff's recommendation in the following areas:

- (1) The acceptance of existing SER agreements;
- (2) The more realistic implementation deadlines with the exception of the deadline involving manpower changes and training;
- (3) The removal from the rule of requirements that were unclear or not supported by adequate technical justification.

However, a fundamental concern remains relating to the use of a generic rulemaking in this context and the absence of time in

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which to comment on certain technical provisions which now appear in the staff's proposed final rule.

EET and its members have and continue to support sound Fire Protection measures at nuclear power plants. In fact, member companies have worked cooperatively with NRC Staff and have implemented many improvements in plant fire protection during the past several years. An abbreviated survey of our member companies has indicated that an average of \$2,500,000 per plant has already been expended to improve nuclear plant fire protection systems following the Brown's Ferry fire.

In light of this effort, we feel that pursuing these regulations is not merited. Little justification has been given for industry wide regulations. The apparent motivation for this approach has been individual disagreements on a few issues at a number of plants. These disagreements focus on site-specific engineering and economic issues. The differences relate to interpretation and application of only 17 issues (of approximately 60 separately identifiable topics contained in Appendix A to Branch Technical Position 9.5-1). Currently 25 units have approved fire protection programs, addressing all of the issues. At the remaining 45 units some issues may be open items at only one or two plants. Some plants may have only one or two unresolved issues in their total fire protection program and none has all 17 issues remaining unresolved. This is hardly indicative of general industry neglect in the fire protection area.

In summary, the issues that remain unresolved do not represent problems generic to the industry. We feel a more appropriate approach would be the issuance of individual orders to licensees where agreement cannot be reached on implementation of existing regulatory guides. This approach allows for individual consideration of site-specific factors and tailoring of the order appropriately. In pursuing the generic rulemaking approach we fear that the flexibility inherent in the individual order approach will be lost. Specifically, the course we recommend has the following advantages:

- (1) Issuing individual orders allows for site-specific evaluation of the individual fire protection programs.
- (2) Proceeding on a case-by-case basis permits an appeal process incorporating fundamental concepts of fairness and due process which should be accorded licensees prior to being compelled to make major, costly and time consuming modifications to existing plants.
- (3) Implementation of acceptable requirements through this approach should not be delayed significantly beyond the implementation schedule in the staff's revised proposed regulations when ultimately effective.

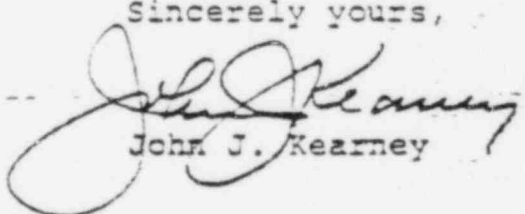
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In our comments on the original proposed rule we expressed dismay at the short 30-day comment period for rules of such technical detail. We felt the asserted justification for such a short comment period was unfounded. We did not move specifically for additional time because of the unequivocal position taken by the Commission on this point in the preamble. 1/ Our position on this matter has not changed. The staff's response to comments on this subject now in the proposed final rule is unpersuasive. Significant changes have been made in the current revision to the proposed rule. While these changes resolved some of our previous concerns, they have not resolved others. In fact, several new requirements have been proposed. While time has not permitted an in depth technical review of the revised sections since public release of this document on October 2, 1980, several key issues appear to require further revision or clarification prior to issuance of the regulation: "associated circuits", the definition and application of which is unclear and is open to varied interpretations; definitions and use of terms "safety related", "safe-shutdown" and "important to safety" as well as a new statement including the undefined term "safety functions"; and the unexplained reference to "adverse valve actions due to fire damage". With respect to "associated circuits", the revised proposed Appendix R expressly states, "The NRC Staff plans to look into the nature of the protection actually provided to such circuits as a result of previous fire protection reviews and into the nature of potential inter-actions to determine whether the explicit requirements of Appendix R should be made applicable to previously approved systems". 2/ We do not know what the Staff is contemplating. This entire subject area is in need of additional clarification.

An additional comment period of 10-15 days would permit the industry to assess the desirability and impact of these few remaining issues in the proposed revisions as they apply to individual plants. Resolution of them would then be possible before final Commission action.

The Edison Electric Institute wishes to thank you for the opportunity to present, on behalf of our member companies, our objections, recommended alternatives to, and position on this proposed significant fire protection regulation.

Sincerely yours,



John J. Kearney

JJK:jel

cc: Commissioners Hendrie ✓
Gilinsky
Bradford

1. 45 Fed. Reg. 36082, May 29, 1980: "For these reasons no extension of the comment period will be granted".
2. SECY-80-438A, Enclosure A, page 6.