

INR 6 Environmental Qualification of Elec Equip



June 18, 1982

SECY 82-207B

**RULEMAKING ISSUE**  
(Affirmation)

For: The Commissioners

From: William J. Dircks  
Executive Director for Operations

Subject: EXTENSION OF JUNE 30, 1982 DEADLINE FOR ENVIRONMENTAL QUALIFICATION OF SAFETY-RELATED ELECTRIC EQUIPMENT

Purpose: To provide the Commission with alternative methods of extending the deadline pending publication of a final rule.

Category: Minor policy matter.

Discussion: In the Secretary's Memorandum of June 10, 1982, the Commission requested that the staff prepare two alternative rules which would extend the June 30 deadline for completion of environmental qualification of electric equipment. As the Commission is aware, that deadline was imposed upon licensees via plant-specific orders modifying technical specifications following the Commission's issuance of CLI-80-21.

Three alternative approaches have been provided by the staff [Enclosure 1]. Alternatives 1 and 3 are those requested by the Commission. Alternative 2 has been added for your consideration for reasons explained below. Alternative 1 would extend the June 30 deadline to

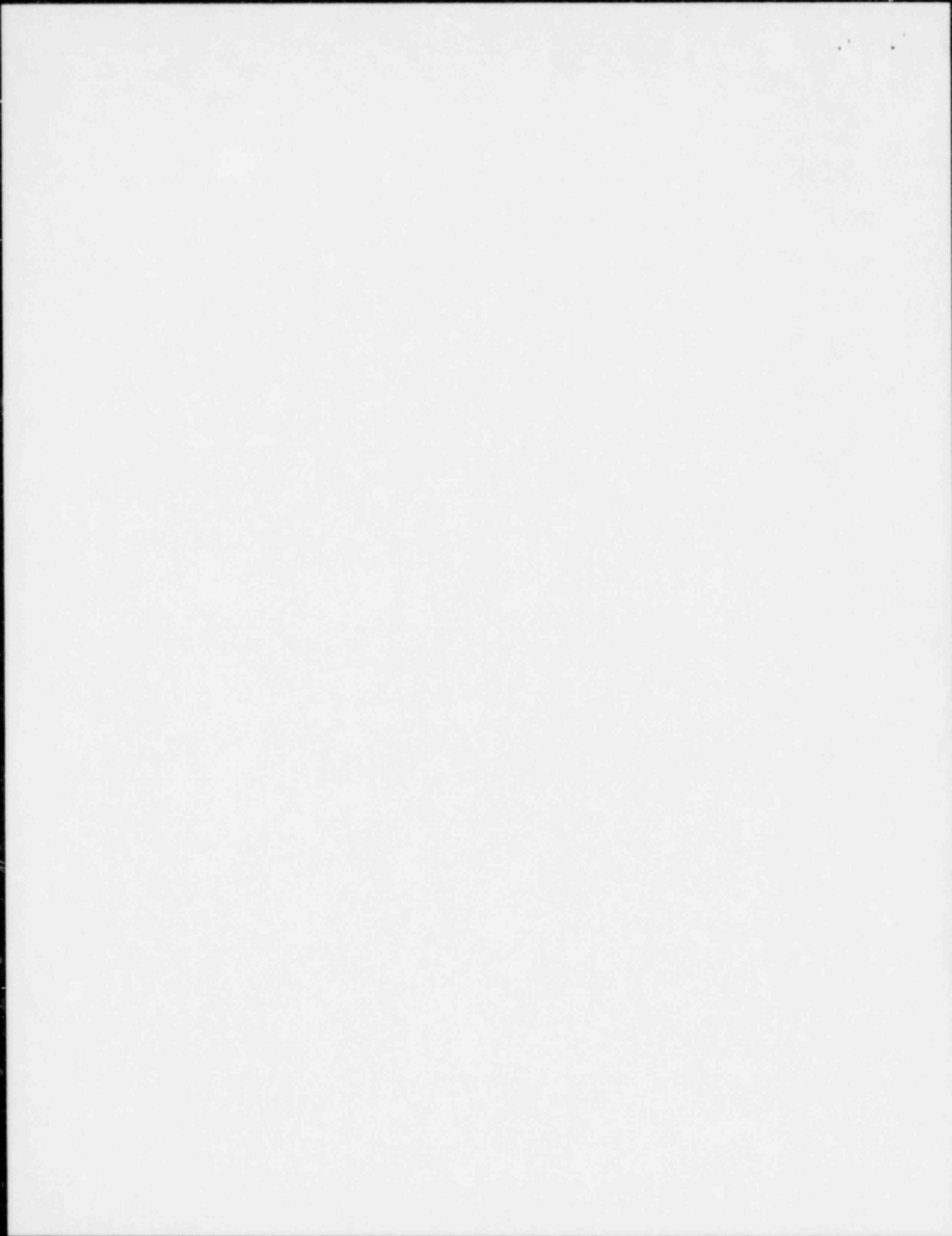
Contacts:  
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443-5946

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September 30, 1982, with publication of the final rule to take place sometime during that period. Alternative 2 would simply suspend the deadline pending publication of the final rule. Alternative 3 incorporates, in abbreviated form, the implementation schedule of the proposed rule, which provided a deadline of the end of the second refueling outage after March 31, 1982, with provision for extensions to November 30, 1985, for good cause shown. Each alternative would take the form of a new 10 CFR 50.49, to be replaced by the final rule--bearing the same section number--upon its publication in the Federal Register.

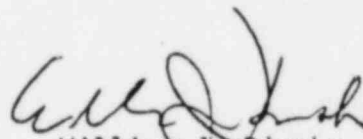
Alternative 1 has the advantage of setting a near-term replacement date for the June 30 deadline. However, the operating plant licensees are probably planning to meet the schedule now contemplated by the final rule so that it is likely that none will be able to meet September 30. It is also possible that 90 days may not be sufficient to promulgate a final rule, in which case another extension will be needed. Alternative 3 alleviates this latter concern by adopting the long-term schedule which most licensees are expecting to be adopted and can probably meet. It has several drawbacks, however. First, it may give the impression that a final rule will never be promulgated, despite statements in the Supplementary Information section to the contrary. Second, because this alternative essentially promulgates the implementation section of the proposed rule, it should be accompanied by an analysis of the public comments on that section. This is impractical at this stage since the Staff's comment analysis on the final rule has not been approved by the Commission.

The staff therefore suggests that the Commission adopt Alternative 2, which, the Commission may recall, was the method used to deal with a similar problem prior to promulgation of the fire protection rule. (See Enclosure 2). While this option is open-ended as to dates, the notice is drafted to clearly signal that publication of the final rule is imminent. It does not create the "second extension" problem in the event action on the final rule is further delayed, and does not impose a new deadline which is in itself unrealistic. None of the alternatives to alleviate the deadline problem affect the necessity for Commission approval of the final rule.



Recommendations:

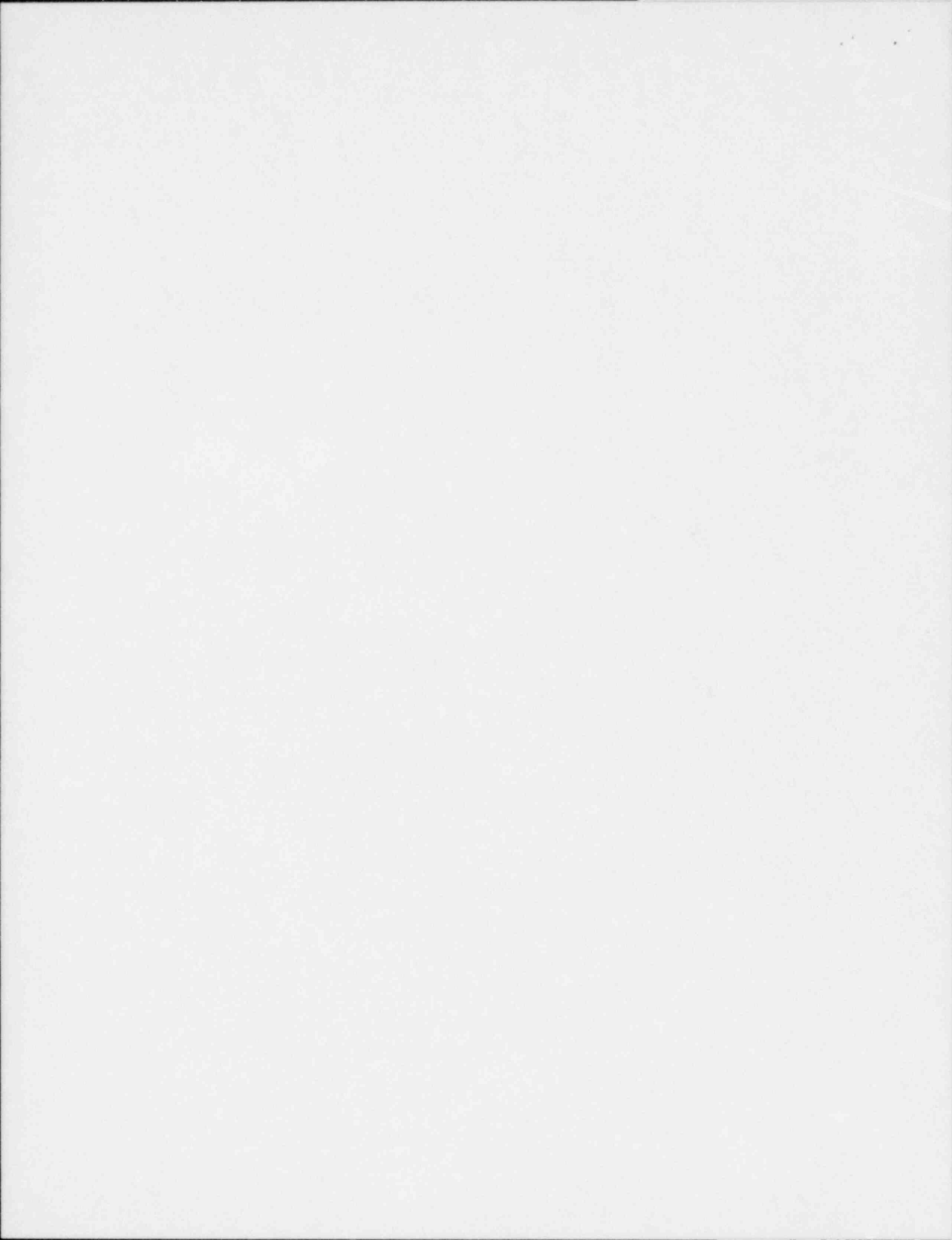
1. APPROVE publication of a Federal Register notice following Alternative 2.
2. NOTE:
  - a. That appropriate Congressional committees will be notified.
  - b. That the rule may be made immediately effective upon publication in the Federal Register pursuant to Section 553(d)(1) of the Administrative Procedure Act, because it "relieves a restriction" previously imposed upon operating nuclear power plant licensees; public notice and comment have been dispensed with for good cause (as explained in the notice) and, pursuant to Section 553(b)(B) of the Administrative Procedure Act, because public procedure would be impractical at this time.
  - c. That the Federal Register notice contains a certification the rule will not have a significant economic impact upon a substantial number of small entities pursuant to the Regulatory Flexibility Act of 1980.
  - d. That the Federal Register notice contains a statement that the rule does not impose any new recordkeeping, information collection, or reporting requirements pursuant to the Paperwork Reduction Act of 1980.
  - e. That the Federal Register notice will be sent to affected licensees and persons who commented on the proposed rule on environmental qualification.



William J. Dircks  
Executive Director for Operations

Enclosures:

1. Draft Federal Register Notice (3 alternatives provided in text)
2. Federal Register Notice Regarding the Fire Protection Rule dated Oct. 29, 1980.



Commissioners' comments should be provided directly to the Office of the Secretary ASAP.

Commission Staff Offices comments, if any, should be submitted to the Commissioners ASAP, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of June 21, 1982. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

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NUCLEAR REGULATORY COMMISSION  
10 CFR PART 50  
Environmental Qualification of Electric Equipment

AGENCY: Nuclear Regulatory Commission

ACTION: Final Rule

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to extend [~~suspend~~]<sup>\*/</sup> completion schedules for environmental qualification of safety-related electric equipment in operating nuclear power plants.

EFFECTIVE DATE: [Upon publication in the FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Satish K. Aggarwal, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-443-5946.

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<sup>\*/</sup> Material in brackets [ ] applies only to Alternative 2.

SUPPLEMENTARY INFORMATION:

On May 27, 1980, the Commission issued a Memorandum and Order in the Matter of the Petition for Emergency and Remedial Action, CLI-80-21, 11 NRC 707. In that Order, the Commission directed that all operating plants complete the qualification of safety-related electric equipment pursuant to the Division of Operating Reactors (DOR) Guidelines and NUREG-0588 no later than June 30, 1982, and stated that this requirement would be incorporated into the technical specifications for each operating plant. This was accomplished by a series of plant-specific orders issued by the Director of Nuclear Reactor Regulation. For plants receiving operating licenses after these orders had been issued, the deadline was placed in a license condition.

In the May 27 Memorandum and Order, the Commission also requested that the staff engage in rulemaking to codify the Commission's standards in this area. A notice of proposed rulemaking was published in the FEDERAL REGISTER on January 20, 1982 (47 FR 2876). The proposed rule contained a new implementation schedule which would supersede the June 30 deadline in the technical specifications or license conditions of operating plants. In addition, the proposed rule included a requirement that licensees of operating plants submit justification for continued operation while qualification efforts are still underway, but it was noted that, if these plant-specific justifications were voluntarily submitted and evaluated by the staff prior to publication of a final rule, this requirement would be deleted. These justifications were subsequently received and analyzed by the Staff.

The Commission expected to be able to publish the final rule prior to the June 30 deadline. This has not proved possible. Although Commission action on the final rule is nearly complete, publication will be delayed somewhat beyond June 30. It is therefore necessary to extend [suspend] the deadline now contained in technical specifications or license conditions pending publication of the final rule.

ALTERNATIVE 1:\*

The Commission is today promulgating an interim 10 CFR 50.49 which will be superseded by the final rule bearing the same section number. The interim rule extends the deadline now contained in technical specifications or license conditions to September 30, 1982. This short extension will permit completion of Commission action on the final rule. The brevity of the extension also ensures that there will be no slackening in licensee efforts to meet the requirements imposed by CLI-80-21.

ALTERNATIVE 2:

The Commission is today promulgating an interim 10 CFR 50.49 which will be superseded by the final rule bearing the same section number. The interim rule suspends the deadline now contained in technical specifications or license conditions pending publication of the final rule, the implementation schedule of which will be immediately effective. Although licensees will be operating under no deadline for a short period of time, the Commission expects that licensee efforts to meet the requirements of CLI-80-21 will continue without interruption.

\* NOTE: Alternatives not selected will be deleted.

ALTERNATIVE 3:

The Commission is today promulgating an interim 10 CFR 50.49 which will be superseded by the final rule bearing the same section number. The interim rule contains, in somewhat abbreviated form, the implementation schedule of the proposed rule [Section 50.49(h)], which provided a deadline for completion of qualification by the end of the second refueling outage after March 31, 1982, with possible extensions to November 30, 1985. The final rule's schedule will be consistent with this interim provision.

The Commission has received, and the staff has evaluated, each operating plant licensee's justification for continued operation. The Commission is satisfied that continued operation of these plants pending completion of the qualification program poses no hazard to the public health and safety. The state of environmental qualification at operating plants is much improved since imposition of the June 30 deadline, though much work remains, and the Commission finds that no public purpose would be served by placing licensees in jeopardy of enforcement actions for the brief interim period between June 30 and publication of the final rule which will establish a new schedule.

This rule may be made immediately effective upon publication in the FEDERAL REGISTER, pursuant to Section 553(d)(1) of the Administrative Procedure Act, because it "relieves a restriction" previously imposed upon licensees of operating nuclear power plants. Furthermore, the Commission is dispensing with public notice and comment in promulgating this rule in final form. The Commission had intended to promulgate a final rule by June 30, 1982. However, because the Commission will be unable to promulgate a final

rule by that date, and because licensees should not be placed in jeopardy of enforcement action pending promulgation of a revised schedule for implementation of equipment qualification requirements, the Commission finds good cause to dispense with notice and comment. In addition, the Commission has already solicited comments in the proposed rule on a schedule delaying implementation beyond June 30 and the final rule will contain a schedule of this type.

#### Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. § 605(b), the Commission hereby certifies that this rule will not have a significant economic impact upon a substantial number of small entities. The rule affects only operating nuclear power plant licensees, which do not fall within the definition of a small business as defined in the Small Business Act, 15 U.S.C. 632, or as defined in the Small Business Size Standards, 13 CFR Part 21.

#### Paperwork Reduction Act Statement

Pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511, the Commission has determined that this rule does not impose new recordkeeping, information collection, or reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 50, is published as a document subject to codification.

PART 50--DOMESTIC LICENSING OF  
PRODUCTION AND UTILIZATION FACILITIES

1. A new Section 50.49 is added to read as follows:

ALTERNATIVE 1:

50.49 Environmental Qualification Schedules

The June 30, 1982, deadline for completion of environmental qualification of safety-related electric equipment, now contained in the technical specifications or license conditions for all operating nuclear power plants, is hereby extended to September 30, 1982.

ALTERNATIVE 2:

50.49 Environmental Qualification Schedules

The June 30, 1982, deadline for completion of environmental qualification of safety-related electric equipment, now contained in the technical specifications or license conditions for all operating nuclear power plants, is hereby suspended pending publication of the final rule on qualification of such equipment.

ALTERNATIVE 3:

50.49 Environmental Qualification Schedules

The June 30, 1982, deadline for completion of environmental qualification of safety-related electric equipment, now contained in the technical specifications or license conditions for all operating nuclear power plants, is hereby

suspended. Licensees shall complete environmental qualification by the end of the second refueling outage after March 31, 1982. The Director of Nuclear Reactor Regulation may, for good cause shown, extend this deadline to November 30, 1985. Extensions beyond November, 1985, must be considered and decided by the Commission itself.

[authority citation]<sup>\*/</sup>

Dated this \_\_\_\_\_ day of June, 1982,  
at Washington, D.C.

For the Nuclear Regulatory Commission

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Samuel J. Chilk  
Secretary of the Commission

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<sup>\*/</sup> To be inserted later.



published on October 1, 1980, 45 FR 64949. The corrected § 0.91 is published below.

**EFFECTIVE DATE:** April 18, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Robert P. De Young, Private Radio Bureau, (202) 632-7175.

**ADDRESS:** Federal Communications Commission Washington, D.C. 20554.

**SUPPLEMENTARY INFORMATION:**

In the Matter of amendment of Part 0 to transfer authority for common carrier matters involving public coast stations to the Private Radio Bureau.

Released: August 19, 1980.

1. In the Order in the above-captioned matter, FCC 80-179 released April 7, 1980, Section 0.91 of the rules was amended to reflect a transfer of function from the Common Carrier Bureau to the Private Radio Bureau (45 FR 25399, April 15, 1980).

2. Section 0.91 of the rules was also amended by Order, FCC 79-882, released March 7, 1980, to reflect the reorganization of the Common Carrier Bureau. Through inadvertence, our Order of April 7, amended the language of the rule prior to its having been amended by our Order of March 7, 1980 (45 FR 16191, March 13, 1980).

3. To correct this situation, Section 0.91 is amended as set forth in the attached appendix, to amend the currently effective language of the rule. Federal Communications Commission. (Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

William J. Tricarico,  
*Secretary.*

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 0.91 the introductory text is revised to read as follows:

**§ 0.91 Functions of the Bureau.**

The Common Carrier Bureau develops, recommends and administers policies and programs for the regulation of services, facilities, rates and practices of entities (excluding public coast stations in the maritime mobile service) which furnish interstate or foreign communications service for hire—whether by wire, radio, cable or satellite facilities—and of ancillary operations related to the provisions or use of such services. The Bureau also regulates the rates, terms, and conditions for cable television and pole attachments, where such attachments are not regulated by a state and not provided by railroads or governmentally—or cooperatively owned utilities. The Bureau also

performs the following specific functions:

[FR Doc. 80-33778 Filed 10-28-80; 8:45 am]  
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**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 50**

**Fire Protection Schedules for Operating Nuclear Power Plants**

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to temporarily suspend completion schedules for certain fire protection features in operating nuclear plants pending completion of its ongoing comprehensive fire protection rulemaking. This suspension is necessary because some NRC licensees are unable to meet fire protection implementation deadlines contained in licensed conditions. The Commission has found that fire protection measures already implemented give reasonable assurance of safety, and that no health and safety interest would be served by forcing certain licensees to shut down during the brief period between the license condition deadlines and the effectiveness of the final fire protection rule.

**EFFECTIVE DATE:** October 29, 1980.

**FOR FURTHER INFORMATION CONTACT:** William Shields, Office of Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-492-8696.

**SUPPLEMENTARY INFORMATION:** On May 29, 1980, the Commission published in the Federal Register (45 FR 36082) a Notice of Proposed Rulemaking entitled "Fire Protection Program for Nuclear Plants Operating Prior to January 1, 1979." The proposed rule provided that all fire protection modifications except alternate or dedicated shutdown capability would be required to be implemented by November 1, 1980, unless the Commission approve an extension for good cause. This deadline was also stated in the Commission's May 27, 1980 Memorandum and Order on the Union of Concerned Scientists Petition for Emergency and Remedial Action. 11 NRC 707, 719.

Many of the commenters on the proposed rule contended that the November 1 deadline was unachievable. Moreover, much more time than was

earlier anticipated has been required to prepare a final rule on fire protection. Although the final rule is near completion, and will incorporate an implementation schedule different from that in the proposed rule, it has not yet been published and in any event would not be effective until 90 days after publication.

Certain NRC licensees, however, are at present operating under license conditions or technical specifications thereto which include the November 1 deadline or other dates which will precede the effective date of the final rule. To the extent that these licensees have been unable to complete all of the fire protection measures to which these deadlines apply, continued operation would violate the license conditions. The violation would extend only until the final rule becomes effective, since the implementation schedule contained in the final rule will supersede inconsistent license conditions.

The Commission has determined, based upon a review of the entire record in this rulemaking, that relief from these license conditions is appropriate pending promulgation of the final rule on fire protection applicable to all NRC licensees. Extensive fire protection measures have already been implemented at all operating plants. The implementation schedule of the final rule will be uniform and comprehensive, and will apply to all operating plants including those with different schedules contained in license conditions. No public health and safety interest would be served by forcing only those licensees unable to meet deadlines preceding the effectiveness of the final rule to shut down for the brief interim. To the contrary, the fire protection measures already implemented give reasonable assurance that all operating nuclear plants may continue to operate safely even though the final rule will require additional fire protection measures at many plants.

The Administrative Procedure Act provides that a rule may be effective upon publication when that rule "grants or recognizes an exception or relieves a restriction." 5 U.S.C. 553(d)(1). This rule relieves certain NRC licensees from license conditions or technical specifications thereto in regard to fire protection implementation deadlines, and will therefore be effective upon the date of publication in the Federal Register. Furthermore, as noted above, the proposed rule stated that extensions from the November 1, deadline would be considered for good cause. Extensive public comment was received to the effect that the deadline was unrealistic



and should be revised. Under these circumstances the Commission believes that there is good cause for an extension of the license condition schedules pending effectiveness of the final rule on fire protection.

The rule provides that all compliance dates contained in license conditions or technical specifications for required fire protection measures are suspended pending further action by the Commission. As is clear from the above discussion, that further action will be promulgation of the final rule on fire protection. The Commission intends that licensees affected by this rule should use best efforts to complete all required measures as soon as possible despite the suspension of the deadlines for this brief period.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 50, is published as a document subject to codification.

#### **PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES**

1. A new Section 50.48 is added to read as follows:

##### **§ 50.48 Fire protection schedules.**

To the extent that any facility's license conditions or technical specifications incorporate compliance dates for modifications necessary to provide fire protection features proposed by a licensee and accepted by the NRC staff as satisfying the provisions of Appendix A to Branch Technical Position BTP/APCSB 9.5-1 and reflected in NRC staff Fire Protection Safety Evaluation Reports issued prior to the effective date of this rule, those dates are hereby suspended pending further action by the Commission.

(Sec. 161b, Pub. Law 83-703, 68 Stat. 948; Sec. 201, Pub. Law 93-438, 88 Stat. 1242 (42 U.S.C. 2201(b), 5841))

Dated at Washington, D.C. this 27th day of October 1980

For the Nuclear Regulatory Commission.

Samuel C. Chilk,

*Secretary of the Commission.*

[FR Doc. 80-33844 Filed 10-28-80; 10:14 am]

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