



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 14, 2020

Dr. Jennifer L. Uhle
Vice President, Generation & Suppliers
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington, DC 20004

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED TO CERTAIN FIRE PROTECTION REQUIREMENTS FOR OPERATING AND DECOMMISSIONING REACTOR LICENSEES DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY

Dear Dr. Uhle:

As you know, on January 31, 2020, the U.S. Department of Health and Human Services declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the Coronavirus Disease 2019 (COVID-19). On March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization. This is an unprecedented time for our country, the U.S. Nuclear Regulatory Commission (NRC), and its regulated entities. In all our actions, we are committed to following the NRC's Principles of Good Regulation (independence, openness, efficiency, clarity, and reliability) while performing our mission. In keeping with these principles, this letter provides information regarding NRC's planned actions related to requirements contained in Title 10 of the *Code of Federal Regulations* (CFR), Section 50.48, "Fire protection," for fire brigades during the COVID-19 PHE.

All licensees have approved fire protection programs that meet either a fire protection Branch Technical Position (BTP) (such as Appendix A to BTP Auxiliary and Power Conversion Systems Branch (APCSB) 9.51, or BTP Chemical Engineering Branch (CMEB) 9.51¹), National Fire Protection Association (NFPA) 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition," or 10 CFR Part 50, Appendix R. All approved fire protection programs are listed as a license condition in each plant's license. Compliance with the fire protection program is governed by the license condition and the regulatory requirements in 10 CFR 50.48.

In a letter dated April 23, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20118C271), the Nuclear Energy Institute (NEI), on behalf of its members, notified the NRC of the need for regulatory relief from several fire protection program requirements related to annual physical examinations, quarterly fire brigade drills, and annual life fire fighting training due to impacts from the COVID-19 PHE. NEI indicated that nuclear

¹ Appendix A to BTP APCS 9.5-1 "Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976" (ADAMS Accession No. ML070660458), BTP CMEB 9.5-1, "Guidelines for Fire Protection for Nuclear Power Plants" (ADAMS Accession No. ML070660454).

power plants have implemented a variety of actions to follow Centers for Disease Control and Prevention (CDC) recommendations related to social distancing, worker screening, and limiting close-proximity work. Additionally, licensees have deferred, or are considering deferring, actions that increase the COVID-19 risk to plant workers and local communities such as periodic fire brigade drills, annual practice in actual fire extinguishment or live fire fighting exercises, and fire brigade member physical examinations.

The NRC's regulations in 10 CFR 50.12, "Specific exemptions," state at Section 50.12(a)(1) that the Commission may, upon application of any interested person or on its own initiative, grant such exemptions from the requirements of the regulations which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. However, per 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever one of the factors in listed in 10 CFR 50.12(a)(2)(i)-(vi) is met.

Below please find information that may inform requests for accelerated reviews of exemptions from specific fire protection program requirements pertaining to the fire brigade training and qualification requirements in 10 CFR 50.48. These exemptions, if granted, would, exempt the licensee from implementation of requirements that would otherwise cause the licensee to take actions that could conflict with practices recommended by the CDC to limit the spread of COVID-19.² The NRC will expedite exemption requests that provide the information below; requests that do not provide the information specified below will be processed as ordinary exemption requests and likely will take longer to review.

For some licensees, the exemption process may not be the appropriate mechanism to request relief from their fire protection requirements. Some licensees may need to request a license amendment to effect changes to their fire protection programs.

Annual Physical Examination

Appendix R to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," applies to licensed nuclear power electric generating stations that were operating prior to January 1, 1979, except to the extent set forth in 10 CFR 50.48(b). Section III.H. of Appendix R requires a site fire brigade, and states that the "qualification of fire brigade members shall include an annual physical examination to determine their ability to perform strenuous fire fighting activities."

NFPA 805 Section 3.4.1(e) requires that each industrial fire brigade member shall pass an annual physical examination to determine if the person can perform the strenuous activity required and use respiratory protection equipment.

To facilitate an expedited review of an exemption request from the physical exam requirements noted above, the licensee should submit a request that contains the following information:

- references to supporting documents that will enable the staff's timely review (e.g., ADAMS accession numbers for fire protection licensing basis documents);

² <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> (available at ADAMS Accession No. ML20133K164).

- a statement that the licensee cannot meet the annual physical examination requirement of its fire protection program without workers taking actions that may be contrary to CDC's guidance for responding to the COVID-19 PHE;
- a statement that the licensee would, for the duration of any exemption approved by NRC, apply a licensee-specific process to manage affected personnel, while ensuring the safety of its workers;
- the date when the exemption would be implemented, if approved, and when the licensee-specific process would take effect;
- whether the exemption would only be limited to personnel having known, stable medical histories as determined and documented by a qualified health care professional (i.e., a licensed medical doctor or other health care professional qualified to provide professional expertise in the areas of occupational safety and health as related to emergency response activities);
- a statement that each affected fire brigade member has or will complete an annual medical history questionnaire, prior to the expiration of the current annual physical examination, based on standards such as American National Standards Institute (ANSI) Z-86.6-2006, "Physical Qualifications for Respirator Use," and the Occupational Safety and Health Administration Respirator Medical Evaluation Questionnaire from 29 CFR 1910.134, Appendix C;
- a statement that a qualified health care professional will review the medical history questionnaire prior to the expiration of the current annual physical examination and will determine and document that an extension of the fire brigade member's annual physical examination due date is acceptable such that the he or she remains qualified during the extension; and
- a statement that compliance will be restored by December 31, 2020, or 90 days after the end of the PHE, whichever occurs first.

Quarterly Fire Brigade Drills

Section III.I of Appendix R to 10 CFR Part 50 requires a fire brigade training program consisting of an initial classroom instruction program followed by periodic classroom instruction, fire fighting practice, and fire drills. Section III.I.3 requires drills, (a.) which shall be performed in the plant so that the fire brigade can practice as a team and (b.) performed at regular intervals not to exceed 3 months for each shift fire brigade.

NFPA 805 Section 3.4.3(c)(1) requires quarterly fire brigade response drills.

To facilitate an expedited review of exemption requests from the drill requirements noted above, licensees should submit a request that contains the following information:

- references to supporting documents that will enable the staff's timely review (e.g., ADAMS accession numbers for fire protection licensing basis documents);

- a statement that the licensee cannot meet the quarterly drill requirement of its fire protection program without workers taking actions that may be contrary to CDC's guidance for responding to the COVID-19 PHE;
- a statement that the licensee would, for the duration of any exemption approved by NRC, apply a licensee-specific process to manage affected personnel, while ensuring the safety of its workers;
- the date when the exemption would be implemented, if approved, and when the licensee-specific process would take effect;
- a description of any changes made to the fire brigade drill program to provide means other than typical face-to-face, close-quarter drills for training and evaluations of brigade members during the exemption period (e.g., plans to review, with the fire brigade members, records of past drill critiques, including areas where past drills indicated the need for retraining or broadened training);
- a statement that this exemption, if granted, will be limited to personnel having prior experience with the activity to which they will be assigned; and
- a statement that compliance will be restored within 90 days of termination of the PHE or December 31, 2020, whichever occurs first.

Annual Live Fire Fighting Training

Section III.1.2 of Appendix R to 10 CFR Part 50 requires annual practice sessions for each brigade member to provide training in fire fighting and the use of emergency breathing apparatus.

NFPA 805 paragraph 3.4.1(a)(1) requires, in part, that live fire training be conducted at least annually.

To facilitate an expedited review of exemption requests from the annual training requirements noted above, licensees should submit a request that contains the following information:

- references to supporting documents that will enable the staff's timely review (e.g., ADAMS accession numbers for fire protection licensing basis documents);
- a statement that the licensee cannot meet the live fire fighting training requirement without workers taking actions that may be contrary to CDC's guidance for responding to the COVID-19 PHE;
- a statement that the licensee would, for the duration of any exemption, apply a licensee-specific process to manage affected personnel, while ensuring the safety of its workers;
- the date when the exemption would be implemented, if approved, and when the licensee-specific process would take effect;

- a statement that the facility used to conduct live fire fighting training is closed due to the COVID-19 PHE; a statement that the facility has been contacted and the licensee has made a request to schedule its live fire fighting training as soon as possible after the COVID-19 PHE has ended; and a statement that includes the dates the live fire fighting training sessions were previously scheduled for or when the annual requirement will not be met;
- a description of any changes made to the fire brigade drill training program so that it will provide for training and evaluations of a brigade members' knowledge, skills, and abilities without the conduct of live fire fighting training during the exemption period; and
- a statement that compliance will be restored by December 31, 2021, or 365 days after the end of the PHE, whichever occurs first.

How to Submit Requests

Licensees should make every effort to submit timely exemption requests. Licensees should continue to follow 10 CFR 50.4, "Written communications." To ensure timely receipt and review of these exemption requests, licensees should also send an email with the request to their facility's NRC project manager, in addition to submitting the request as provided in NRC regulations.

Review Process

The NRC will consider these requests on a case-by-case basis and will provide a written decision. Based upon its review, the NRC staff may condition any exemption approval, as appropriate. If sufficient time is not available for the NRC to provide a prior written decision for the exemption, then the NRC may provide a verbal decision that will be followed promptly with a letter documenting the approval or denial of the request.

Duration of Exemptions

Exemptions that are approved under this expedited review process will be in effect until the specified period of time described above for each of the three specific requirements. Licensees must come back into compliance with their approved fire protection programs or receive approval for an additional exemption term from the NRC before the end of each approved term has expired. As with the initial approval, subsequent approvals would be addressed in writing or verbally, depending on the timing of the licensee's request.

Alternative Approaches

This letter does not preclude requests for exemptions that take a different approach or present different rationales or proposed end dates. The NRC will review these requests on a case-by-case basis.

Paperwork Reduction Act

This letter contains voluntary guidance for implementing the voluntary information collections covered by 10 CFR Part 50, that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). These information collections were approved by the Office of Management and Budget under control number 3150-0011. The estimated burden per

response to comply with this voluntary information collection request is 80 hours. Send comments regarding this information collection to the Information Services Branch (T6 A10M), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to Infocollects.Resource@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB 10202, (3150-0011) Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

If you have any further questions about the contents of this letter, please contact your facility's NRC project manager.

Sincerely,

Sincerely,

Ho K. Nieh, Director
Office of Nuclear Reactor
Regulation

John W. Lubinski, Director
Office of Nuclear Material Safety
and Safeguards

Identical letters sent to:

Dr. Jennifer L. Uhle
Vice President, Generation & Suppliers
Nuclear Energy Institute
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Washington, DC 20004

Mr. Chris Bakken
Executive Vice President
Nuclear Operations & Chief Nuclear Officer
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Executive Vice President, Nuclear
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Florida Power & Light Company
Mail Stop: NT3/JW15430
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Jupiter, FL 33478

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED TO CERTAIN FIRE PROTECTION REQUIREMENTS FOR OPERATING AND DECOMMISSIONING REACTOR LICENSEES DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY DATED MAY 14, 2020

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ADAMS Accession No.: ML20122A022

***via email NRR 106**

OFFICE	NRR/DRA/APLB*	NRR/DRA/APLB/BC*	NRR/DORL/D*	NRR/DRA/D*
NAME	JRobinson	JWhitman	CErlanger	MFranovich
DATE	5/1/2020	5/1/2020	5/4/2020	5/4/2020
OFFICE	OGC – NLO*	NMSS/D*	NRR/D*	
NAME	DRoth	JLubinski	HNieh	
DATE	5/12/2020	5/14/2020	5/14/2020	

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 14, 2020

Mr. Chris Bakken
Executive Vice President
Nuclear Operations & Chief Nuclear Officer
Entergy Nuclear
1340 Echelon Parkway
Jackson, MS 39213

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED TO CERTAIN FIRE PROTECTION REQUIREMENTS FOR OPERATING AND DECOMMISSIONING REACTOR LICENSEES DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY

Dear Mr. Bakken:

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NFPA 805 Section 3.4.1(e) requires that each industrial fire brigade member shall pass an annual physical examination to determine if the person can perform the strenuous activity required and use respiratory protection equipment.

To facilitate an expedited review of an exemption request from the physical exam requirements noted above, the licensee should submit a request that contains the following information:

- references to supporting documents that will enable the staff's timely review (e.g., ADAMS accession numbers for fire protection licensing basis documents);

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- a statement that compliance will be restored by December 31, 2020, or 90 days after the end of the PHE, whichever occurs first.

Quarterly Fire Brigade Drills

Section III.I of Appendix R to 10 CFR Part 50 requires a fire brigade training program consisting of an initial classroom instruction program followed by periodic classroom instruction, fire fighting practice, and fire drills. Section III.I.3 requires drills, (a.) which shall be performed in the plant so that the fire brigade can practice as a team and (b.) performed at regular intervals not to exceed 3 months for each shift fire brigade.

NFPA 805 Section 3.4.3(c)(1) requires quarterly fire brigade response drills.

To facilitate an expedited review of exemption requests from the drill requirements noted above, licensees should submit a request that contains the following information:

- references to supporting documents that will enable the staff's timely review (e.g., ADAMS accession numbers for fire protection licensing basis documents);

- a statement that the licensee cannot meet the quarterly drill requirement of its fire protection program without workers taking actions that may be contrary to CDC's guidance for responding to the COVID-19 PHE;
- a statement that the licensee would, for the duration of any exemption approved by NRC, apply a licensee-specific process to manage affected personnel, while ensuring the safety of its workers;
- the date when the exemption would be implemented, if approved, and when the licensee-specific process would take effect;
- a description of any changes made to the fire brigade drill program to provide means other than typical face-to-face, close-quarter drills for training and evaluations of brigade members during the exemption period (e.g., plans to review, with the fire brigade members, records of past drill critiques, including areas where past drills indicated the need for retraining or broadened training);
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Annual Live Fire Fighting Training

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Sincerely,

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Ho K. Nieh, Director
Office of Nuclear Reactor
Regulation

John W. Lubinski, Director
Office of Nuclear Material Safety
and Safeguards



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 14, 2020

Mr. Don Moul
Executive Vice President, Nuclear
Division and Chief Nuclear Officer
Florida Power & Light Company
Mail Stop: NT3/JW15430
Endeavor Drive
Jupiter, FL 33478

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED TO CERTAIN FIRE PROTECTION REQUIREMENTS FOR OPERATING AND DECOMMISSIONING REACTOR LICENSEES DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY

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For some licensees, the exemption process may not be the appropriate mechanism to request relief from their fire protection requirements. Some licensees may need to request a license amendment to effect changes to their fire protection programs.

Annual Physical Examination

Appendix R to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," applies to licensed nuclear power electric generating stations that were operating prior to January 1, 1979, except to the extent set forth in 10 CFR 50.48(b). Section III.H. of Appendix R requires a site fire brigade, and states that the "qualification of fire brigade members shall include an annual physical examination to determine their ability to perform strenuous fire fighting activities."

NFPA 805 Section 3.4.1(e) requires that each industrial fire brigade member shall pass an annual physical examination to determine if the person can perform the strenuous activity required and use respiratory protection equipment.

To facilitate an expedited review of an exemption request from the physical exam requirements noted above, the licensee should submit a request that contains the following information:

- references to supporting documents that will enable the staff's timely review (e.g., ADAMS accession numbers for fire protection licensing basis documents);

² <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> (available at ADAMS Accession No. ML20133K164).

- a statement that the licensee cannot meet the annual physical examination requirement of its fire protection program without workers taking actions that may be contrary to CDC's guidance for responding to the COVID-19 PHE;
- a statement that the licensee would, for the duration of any exemption approved by NRC, apply a licensee-specific process to manage affected personnel, while ensuring the safety of its workers;
- the date when the exemption would be implemented, if approved, and when the licensee-specific process would take effect;
- whether the exemption would only be limited to personnel having known, stable medical histories as determined and documented by a qualified health care professional (i.e., a licensed medical doctor or other health care professional qualified to provide professional expertise in the areas of occupational safety and health as related to emergency response activities);
- a statement that each affected fire brigade member has or will complete an annual medical history questionnaire, prior to the expiration of the current annual physical examination, based on standards such as American National Standards Institute (ANSI) Z-86.6-2006, "Physical Qualifications for Respirator Use," and the Occupational Safety and Health Administration Respirator Medical Evaluation Questionnaire from 29 CFR 1910.134, Appendix C;
- a statement that a qualified health care professional will review the medical history questionnaire prior to the expiration of the current annual physical examination and will determine and document that an extension of the fire brigade member's annual physical examination due date is acceptable such that the he or she remains qualified during the extension; and
- a statement that compliance will be restored by December 31, 2020, or 90 days after the end of the PHE, whichever occurs first.

Quarterly Fire Brigade Drills

Section III.I of Appendix R to 10 CFR Part 50 requires a fire brigade training program consisting of an initial classroom instruction program followed by periodic classroom instruction, fire fighting practice, and fire drills. Section III.I.3 requires drills, (a.) which shall be performed in the plant so that the fire brigade can practice as a team and (b.) performed at regular intervals not to exceed 3 months for each shift fire brigade.

NFPA 805 Section 3.4.3(c)(1) requires quarterly fire brigade response drills.

To facilitate an expedited review of exemption requests from the drill requirements noted above, licensees should submit a request that contains the following information:

- references to supporting documents that will enable the staff's timely review (e.g., ADAMS accession numbers for fire protection licensing basis documents);

- a statement that the licensee cannot meet the quarterly drill requirement of its fire protection program without workers taking actions that may be contrary to CDC's guidance for responding to the COVID-19 PHE;
- a statement that the licensee would, for the duration of any exemption approved by NRC, apply a licensee-specific process to manage affected personnel, while ensuring the safety of its workers;
- the date when the exemption would be implemented, if approved, and when the licensee-specific process would take effect;
- a description of any changes made to the fire brigade drill program to provide means other than typical face-to-face, close-quarter drills for training and evaluations of brigade members during the exemption period (e.g., plans to review, with the fire brigade members, records of past drill critiques, including areas where past drills indicated the need for retraining or broadened training);
- a statement that this exemption, if granted, will be limited to personnel having prior experience with the activity to which they will be assigned; and
- a statement that compliance will be restored within 90 days of termination of the PHE or December 31, 2020, whichever occurs first.

Annual Live Fire Fighting Training

Section III.1.2 of Appendix R to 10 CFR Part 50 requires annual practice sessions for each brigade member to provide training in fire fighting and the use of emergency breathing apparatus.

NFPA 805 paragraph 3.4.1(a)(1) requires, in part, that live fire training be conducted at least annually.

To facilitate an expedited review of exemption requests from the annual training requirements noted above, licensees should submit a request that contains the following information:

- references to supporting documents that will enable the staff's timely review (e.g., ADAMS accession numbers for fire protection licensing basis documents);
- a statement that the licensee cannot meet the live fire fighting training requirement without workers taking actions that may be contrary to CDC's guidance for responding to the COVID-19 PHE;
- a statement that the licensee would, for the duration of any exemption, apply a licensee-specific process to manage affected personnel, while ensuring the safety of its workers;
- the date when the exemption would be implemented, if approved, and when the licensee-specific process would take effect;

- a statement that the facility used to conduct live fire fighting training is closed due to the COVID-19 PHE; a statement that the facility has been contacted and the licensee has made a request to schedule its live fire fighting training as soon as possible after the COVID-19 PHE has ended; and a statement that includes the dates the live fire fighting training sessions were previously scheduled for or when the annual requirement will not be met;
- a description of any changes made to the fire brigade drill training program so that it will provide for training and evaluations of a brigade members' knowledge, skills, and abilities without the conduct of live fire fighting training during the exemption period; and
- a statement that compliance will be restored by December 31, 2021, or 365 days after the end of the PHE, whichever occurs first.

How to Submit Requests

Licensees should make every effort to submit timely exemption requests. Licensees should continue to follow 10 CFR 50.4, "Written communications." To ensure timely receipt and review of these exemption requests, licensees should also send an email with the request to their facility's NRC project manager, in addition to submitting the request as provided in NRC regulations.

Review Process

The NRC will consider these requests on a case-by-case basis and will provide a written decision. Based upon its review, the NRC staff may condition any exemption approval, as appropriate. If sufficient time is not available for the NRC to provide a prior written decision for the exemption, then the NRC may provide a verbal decision that will be followed promptly with a letter documenting the approval or denial of the request.

Duration of Exemptions

Exemptions that are approved under this expedited review process will be in effect until the specified period of time described above for each of the three specific requirements. Licensees must come back into compliance with their approved fire protection programs or receive approval for an additional exemption term from the NRC before the end of each approved term has expired. As with the initial approval, subsequent approvals would be addressed in writing or verbally, depending on the timing of the licensee's request.

Alternative Approaches

This letter does not preclude requests for exemptions that take a different approach or present different rationales or proposed end dates. The NRC will review these requests on a case-by-case basis.

Paperwork Reduction Act

This letter contains voluntary guidance for implementing the voluntary information collections covered by 10 CFR Part 50, that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). These information collections were approved by the Office of Management and Budget under control number 3150-0011. The estimated burden per

response to comply with this voluntary information collection request is 80 hours. Send comments regarding this information collection to the Information Services Branch (T6 A10M), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to Infocollects.Resource@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB 10202, (3150-0011) Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

If you have any further questions about the contents of this letter, please contact your facility's NRC project manager.

Sincerely,

Sincerely,

Ho K. Nieh, Director
Office of Nuclear Reactor
Regulation

John W. Lubinski, Director
Office of Nuclear Material Safety
and Safeguards