



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 15, 2006

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-06-0196

TITLE: ISSUANCE OF GENERIC LETTER 2006-XX, "POST-FIRE
SAFE-SHUTDOWN CIRCUITS ANALYSIS SPURIOUS
ACTUATIONS"

The Commission (with Chairman Klein and Commissioners McGaffigan, Merrifield, and Lyons agreeing) disapproved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of December 15, 2006. Commissioner Jaczko approved the paper.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

A handwritten signature in black ink, appearing to read "Annette L. Vietti-Cook".

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Klein
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
OGC
EDO
PDR

VOTING SUMMARY - SECY-06-0196

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. KLEIN		X			X	11/28/06
COMR. McGAFFIGAN		X			X	10/17/06
COMR. MERRIFIELD		X			X	11/30/06
COMR. JACZKO	X				X	9/22/06
COMR. LYONS		X			X	11/21/06

COMMENT RESOLUTION

In their vote sheets, Chairman Klein and Commissioners McGaffigan, Merrifield, and Lyons disapproved the staff's recommendation and provided some additional comments. Commissioner Jaczko approved the paper. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on December 15, 2006.

NOTATION VOTE

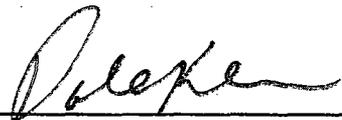
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: CHAIRMAN KLEIN
SUBJECT: SECY-06-0196 - ISSUANCE OF GENERIC LETTER
2006-XX, "POST-FIRE SAFE-SHUTDOWN CIRCUITS
ANALYSIS SPURIOUS ACTUATIONS"

Approved _____ Disapproved xx Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached xx None _____



SIGNATURE

Nov. 28, 2006

DATE

Entered on "STARS" Yes No _____

Chairman's Comments on SECY-06-0196

I join Commissioners McGaffigan and Lyons in disapproving the issuance of this Generic Letter at this time and in its present form.

Although the 2001 industry fire test results indicate an issue that must ultimately be resolved, I join Commissioner Lyons in believing that it should be resolved without requesting licensees to perform an analysis for which no clear accepted regulatory guidance has been developed.

The staff has indicated that there is no immediate regulatory action required on this issue due to the several levels of defense-in-depth in place for fire protection. Therefore, I believe that it is appropriate for the staff to inform this issue with the results of the ongoing CAROLFIRE cable testing program being conducted by the NRC's Office of Regulatory Research.

I also believe that the staff should work with industry to develop or endorse guidelines that provide a clearly defined method for the operating plants to determine compliance.

The staff should continue to encourage licensees to transition to 10CFR 50.48 c and NFPA 805. This would allow resolution of these types of issues in a performance based and risk informed manner.

NOTATION VOTE

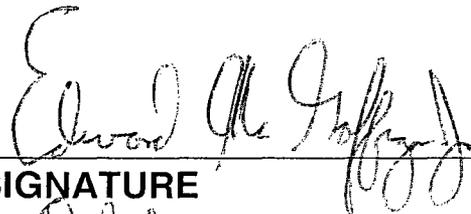
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MCGAFFIGAN
SUBJECT: SECY-06-0196 - ISSUANCE OF GENERIC LETTER
2006-XX, "POST-FIRE SAFE-SHUTDOWN CIRCUITS
ANALYSIS SPURIOUS ACTUATIONS"

Approved _____ Disapproved X Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached X None _____



SIGNATURE

October 17, 2006

DATE

Entered on "STARS" Yes X No _____

Commissioner McGaffigan's Comments on SECY-06-0196

I disapprove the issuance of the staff's proposed Generic Letter entitled, "Post-Fire Safe-Shutdown Circuit Analysis Spurious Actuations."

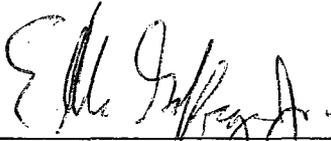
I have carefully reviewed the staff's proposed Generic Letter, external stakeholders' comments on it, and the staff's responses. I have concluded that the staff does not have an adequate basis for proceeding and that the Generic Letter should not be issued.

Since being briefed by staff in late September, I have been troubled both by the excessive costs of this action compared to benefits and by the staff's treatment of backfit questions. Industry now asserts that the staff's estimate of \$19 to 36 million in benefits (depending on discount rate) is seriously overstated because the staff is misinterpreting research results. Industry asserts costs, which the staff estimates at \$87 to 89 million, are more likely to be \$200 to \$500 million. We should not take regulatory actions where costs vastly exceed benefits. If industry is right about costs, this action is now bordering on a "major rule" under Congress' definition. And I would not want to be defending this action before Congress.

On backfit, it is absolutely clear that the staff has taken multiple positions on this issue in the past two decades. Choosing one of those positions, and claiming that it was the enduring staff position and that this Generic Letter therefore meets the compliance backfit exception, simply does not pass the laugh test.

The staff in both the paper and in my briefing claimed that those licensees committed to NFPA 805 implementation will be able to deal with the multiple hot short issues in that context. They seem to admit that fire PRAs will prove that the vast majority of multiple hot short scenarios will be risk insignificant and that exemptions will be granted. But the staff happily places the burden on licensees to engage in a sort of reverse backfit rule process and to prove to the staff using methodologies yet to be developed and approved, that costs vastly exceed benefits and safety gains are insignificant.

I have been at NRC almost ten years. This is not my vision of good regulation. I urge my colleagues to reject this Generic Letter and send the staff back to the drawing board.

 10/17/06

Edward McGaffigan, Jr. (Date)

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MERRIFIELD
SUBJECT: SECY-06-0196 - ISSUANCE OF GENERIC LETTER
2006-XX, "POST-FIRE SAFE-SHUTDOWN CIRCUITS
ANALYSIS SPURIOUS ACTUATIONS"

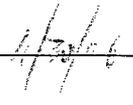
Approved _____ Disapproved Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached None _____



SIGNATURE



DATE

Entered on "STARS" Yes No _____

**Commissioner Merrifield's Comments on SECY-06-0196
Issuance of Generic Letter 2006-XX, " Post-Fire Safe-Shutdown Circuits Analysis
Spurious Actuations"**

I join Chairman Klein and Commissioners McGaffigan and Lyons in disapproving the issuance of this Generic Letter at this time and in its present form.

I am not persuaded by the staff's argument that multiple simultaneous spurious actuations were always included as part of the licensing basis; and, I agree with Commissioner Lyons that debating whether this position is a backfit is wasteful and would do nothing to resolve the technical concerns raised by recent industry fire tests.

I agree with Commissioner Lyons that the present draft of the proposed generic letter does not contain the necessary specificity for a licensee to understand what process will be sufficient to meet the analysis needs and information demands of the draft generic letter. Without a reasonable level of regulatory certainty about what is acceptable, licensees could be required to spend substantial amounts of money and time with no safety benefit. The generic letter should contain clearly defined options that are available to satisfy the staff's information requirements or clear references to acceptable evaluation strategies. To the extent practicable, the staff should work with stakeholders to develop the necessary guidance to ensure licensees who choose a deterministic methodology rather than a risk-informed approach will have a clear understanding of how to address fire-induce multiple spurious actuations.

The generic letter does not contain response and plant modification timelines that are consistent for plants changing to NFPA-805 and those that are not. The staff asserts that there is reasonable defense-in-depth at current operating plants such that multiple simultaneous spurious actuations are not an immediate safety concern. Therefore, the staff should develop information demands and completion times that are consistent across the industry.

Confirmatory research is underway under the CAROLFIRE cable testing program that will inform this process and the research should be completed shortly. Given that the staff has been aware of the EPRI report since 2002, it seems that the timing of the generic letter may be premature and could be scheduled in a manner to include the new data from the CAROLFIRE cable testing program.

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NOTATION VOTE

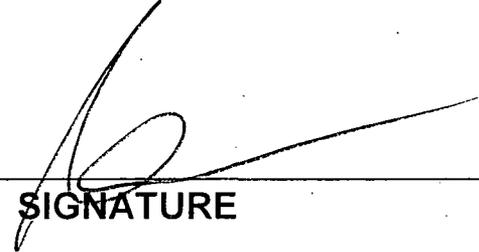
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER JACZKO
SUBJECT: SECY-06-0196 - ISSUANCE OF GENERIC LETTER
2006-XX, "POST-FIRE SAFE-SHUTDOWN CIRCUITS
ANALYSIS SPURIOUS ACTUATIONS"

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached _____ None X



SIGNATURE

9/22/06

DATE

Entered on "STARS" Yes X No _____

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER LYONS
SUBJECT: SECY-06-0196 - ISSUANCE OF GENERIC LETTER
2006-XX, "POST-FIRE SAFE-SHUTDOWN CIRCUITS
ANALYSIS SPURIOUS ACTUATIONS"

Approved ___ Disapproved X Abstain ___ Not Participating ___

COMMENTS: Below ___ Attached X None ___



SIGNATURE

11/21/06

DATE

Entered on "STARS" Yes X No ___

Commissioner Lyons' Comments on SECY-06-0196

I disapprove the issuance of this Generic Letter in its present form.

The references to historical documents made in the draft Generic Letter reveal a trail of letters, memos, NRC generic communications, and other documents that in general discuss various aspects of fire protection but are not definitive regarding the number of spurious actuations that must be analyzed, a fact the staff notes explicitly. However, two notable exceptions wherein the staff has accepted a single spurious actuation interpretation are the Byron and Braidwood licenses and certain cases described in a 1986 Generic Letter. Apparently, the former was a mistake, but the latter is not and remains the staff's position today even as staff now seeks to definitively establish "all" as the enduring standard for all other cases. Thus, it is not surprising that this issue has suffered from ongoing confusion and varying interpretations.

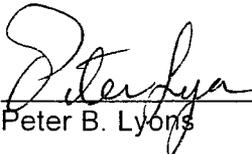
Adding to this is the fact that an interpretation of "all" possible simultaneous combinations can easily impose an order of magnitude greater burden on licensees. For example, all possible combinations of five components potentially affected by a single fire area is 31 (for ten components, the number of combinations jumps to greater than 1,000), and this rapidly increases further if multiple failure states are considered for each component, and further still if sequence aspects are considered.

An issue that has had such a checkered history demands clarity for its effective resolution. However, the present draft of this Generic Letter does not bring the necessary definitiveness to its discussion of Methods of Compliance. Specifically, three of these methods are loosely defined without clearly specified regulatory guidance regarding the criteria or method for defining the number of spurious actuations that must be analyzed.

The 2001 industry fire test results demonstrated that this is clearly a real issue that must be ultimately resolved. However, I believe that it must be resolved without simply resorting to a request for information from licensees. The staff notes that immediate regulatory action is not needed due to the several levels of defense-in-depth in place for fire protection that are not affected by multiple spurious actuations. Therefore, further thought and care can be taken to ensure the resolution is appropriate and lasting.

Although it may be true that this Generic Letter is not a backfit, given the history of this issue, I believe it would be wasteful to debate this point. It may also be unnecessary if a technical approach can be found that would enable demonstration of adequate assurance of public health and safety, if appropriate, without unnecessary regulatory burden, specifically for the approximately 60% of our operating plants that have to date not indicated an intent to utilize 10 CFR 50.48 (c) as their fire protection licensing basis. The staff believes that such technical approaches may exist, based on discussions with specific licensees.

Therefore, I believe that staff should review recent licensee analysis methods in this area, including those identifying combinations of spurious actuations of greatest concern using system/functional scenario development approaches, and work with industry to develop or endorse guidelines that provide a clearly defined Method of Compliance for licensees who do not choose to utilize 10 CFR 50.48 (c). Further, I believe the time frame for resolution for the non-10 CFR 50.48 (c) plants should be about the same as it will be for the licensees who take the 10 CFR 50.48 (c) approach. If still appropriate, a revised Generic Letter may be resubmitted for Commission approval that provides clear options, methods, and guidelines for Methods of Compliance.


Peter B. Lyons 11/21/06
Date