

January 18, 2005

MEMORANDUM TO: Luis A. Reyes  
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - SECY-04-0233 - PROPOSED  
RULEMAKING--POST-FIRE OPERATOR MANUAL ACTIONS  
(RIN 3150 AH-54)

The Commission has approved publication of the proposed rule, subject to the changes noted in the attachment. While many of the changes address the comments noted below, the staff should make conforming changes to the remainder of the package prior to issuing it for public comment.

The rulemaking package should be revised, as attached, to more clearly indicate that although the exemption process is available for cases that can be justified under 10 CFR 50.12, the Commission considers the use of the option provided by this rulemaking or the risk-informed, performance-based option in 10 CFR 50.48(c) more desirable in order to minimize the need for future exemption requests for addressing operator manual actions. In addition, the staff should engage stakeholders to get a clear understanding of the likelihood that the proposed rule would achieve its underlying purpose, including the number of plants for which the proposed rule would address the operator manual actions issue. This information should be considered in deciding whether to proceed to final rulemaking.

The rulemaking package should be revised, as attached, to include the range of options for meeting the time margin requirement for operator manual actions without recommending a preferred option. The options should be provided to solicit public comment on them and on other potential approaches for determining an appropriate time margin.

The Commission has approved the the staff's recommendation to continue using the current enforcement discretion policy described in EGM 98-02, "Enforcement Guidance Memorandum - Disposition of Violations of Appendix R, Sections III.G and III.L Regarding Circuit Failures," and the guidance provided in IP 71111.05 in relation to operator manual actions, until the final rule is published, rather than developing an interim enforcement policy.

Attachment: Changes to the Federal Register Notice in SECY-04-0233

cc: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
DOC  
OGC  
CFO  
OCA  
OPA  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR

## Changes to the Federal Register Notice in SECY-04-0233

1. On page 1, revise the title to read '10 CFR Parts 50'
2. On page 1, paragraph 1, revise line 7 to read ' ... area. The Commission's **believes that the** ....' Revise line 10 to read ' ... **safe hot** shutdown ....'
3. On page 1, last paragraph, revise line 1 to read ' ... proposed rule, **the draft regulatory guide**, and the issue ....' Revise line 2 to read ' ... aspects of this rule **by** (insert ....'
4. On page 3, replace paragraph III.A. with "Operator Manual Actions Alternative".
5. On page 3, revise paragraph III.B. to read 'Addition of **Paragraph III.P**, Operator Manual Actions Acceptance Criteria ~~to Appendix R, Paragraph III.P.~~'
6. On page 4, 1<sup>st</sup> full paragraph under "Background," revise line 2 to read ' ... to 10 CFR **P**art 50.' Revise line 5 to read ' ... shutdown capability of **a** plant ....' Revise line 8 to read ' ... at the Browns Ferry **N**nuclear **p**lant.'
7. On page 5, line 1 from the top, delete the comma.
8. On page 5, 1<sup>st</sup> full paragraph, revise line 1 to read ' ... NRC investigation ~~was conducted and it was~~ found that ....' Revise line 2 to read ' ... was negated by **a** lack of ....' Revise lines 6 and 7 to read ' ... the NRC **interacted** ~~worked~~ with **stakeholders** ~~reactor licensees~~ for several ....' Revise line 9 to read ' ... certain generic **fire protection program** issues, including ....'
9. On page 6, 1<sup>st</sup> full paragraph, revise line 5 to read ' ... process. **During implementation of** ~~When implementing~~ the Appendix ....'
10. On page 6, last paragraph, revise lines 7 and 8 to read ' ... which **were not** ~~had not been~~ reviewed and approved by the NRC **through** ~~via~~ the **10 CFR 50.12** exemption ....'
11. On page 7, revise lines 1 and 2 from the top to read ' ... Appendix R. However, **such actions** ~~they~~ may be an **acceptable** means of achieving **hot safe** shutdown in ....'
12. On page 7, 1<sup>st</sup> full paragraph, revise line 1 to read ' ... with nuclear **power plant** industry licensees ....' Revise line 3 to read ' ... Energy Institute **representative** stated that ....' Revise line 4 to read ' ... based on **the** industry's understanding ....' Revise line 5 to read ' ... industry **representative** also stated ....' Revise line 7 to read '~~Shortly thereafter,~~ **Subsequent to the public meeting**, the NRC ....' Revise line 8 to read ' ...resulting from **licensee use of** unapproved operator ....' Revise line 10 to read ' ... alternate **reactor** shutdown **capability**.' Revise line 11 to read ' ... their interactions with **the NRC staff during implementation of** the NRC ....' Revise line 13 to read ' ... still violations **those** actions ~~that~~ meeting these interim ....'
13. On page 7, delete the last paragraph (The interactions between ... interface.)
14. On page 8, paragraph 1, revise line 3 to read ' ... the Commission **believes** ~~has~~ **determined** that ....' Revise line 17 to read ' ... protection inspectors **will** ~~would~~ verify ....'

Revise line 19 to read ‘...licenses’s’ analyseis, procedures ....’ Revise line 20 to read ‘... ensure the licensees have has adequately ....’ Revise line 21 to read ‘... of a manual actions.’

15. On page 9, paragraph 1, lines 3 and 10, replace the “©” with “(c)”. Make this same correction throughout the document in numerous places. Revise line 14 to read ‘... with paragraphs ....’
16. On page 9, footnote 3, revise line 3 to read ‘... Technical Position CMEB 9.5-1, ....’
17. On page 10, paragraph 1, revise line 2 to read ‘... to codify the use of operator manual actions in conjunction with ....’ Revise lines 3 and 4 to read ‘... compliance method set forth in paragraph III.G.2. The Commission has determined that implementing any ....’ Revise line 5 to read ‘... in paragraph III.G.2 will ....’ Revise line 6 to read ‘... maintaining the reactor in a hot shutdown ....’
18. On page 13, revise line 2 from the top to read ‘... the NRC is proposing decided to codify ....’ Revise line 4 from the top to read ‘... reliable. The NRC believes that cGodifying this ....’
19. On page 13, 1<sup>st</sup> full paragraph, revise line 4 to read ‘... under Paragraph III.G.2 for ....’ Revise line 5 to read ‘... that they can be successfully ....’ Revise the last line to read ‘... Paragraph III.G.2.’
20. On page 13, last paragraph, revise line 2 to read ‘... achieved, and any ....’ Revise line 3 to read ‘... to meet the conservative set of acceptance ....’ Revise line 5 to read ‘... in the event of a fire.’ Revise line 7 to read ‘... will verify that the licensees’ ....’ Revise line 8 to read ‘... actions that meet the ....’
21. On page 15, the word “timeline” appears 3 times. Ensure it is used consistently here and throughout the document either as a single word or as two separate words.
22. On page 15, paragraph (1), revise line 8 to read ‘... margin that reasonably accounts for all important variables, including (i) (†) ....’ Revise line 9 to read ‘... between the analyzed demonstrated and actual ....’
23. On page 15, paragraph (2), revise line 2 to read ‘... or its effects, but still be available utilized to ....’
24. On page 15, paragraph (3), revise line 2 to read ‘... manual action within under the ....’ Revise line 3 to read ‘... limited to (i) (†) all indications necessary to identify show the need ....’
25. On page 15, paragraph (c), revise line 2 to read ‘... action are available operable and readily ....’
26. On page 16, paragraph (d), revise lines 5 and 6 to read ‘... may not rely upon any implement operator manual actions until it has they have been established by a demonstratedion to be ....’ Revise line 8 to read ‘... determines indicates that the ....’
27. On page 17, 1<sup>st</sup> full paragraph, revise line 5 to read ‘... to reach a hot safe shutdown ....’

- Revise line 11 to read ' ... that the ~~d~~Demonstration cannot ....'
28. On page 18, revise line 3 from the top to read ' ... time available ~~particular~~ for such ....'
  29. On page 19, 1<sup>st</sup> full paragraph, revise line 1 to read ' ... should ~~include~~ ~~reflect~~ ~~consideration of~~ realistically conservative scenarios, and ....' Revise line 2 to read ' ... should be ~~accounted for and~~ ....' Delete the sentence in lines 3 through 6 (These variables are ... shutdown.)
  30. On page 19, 2<sup>nd</sup> full paragraph, revise line 1 to read 'The NRC ~~considers the use of a~~ time margin ~~is a~~ an ....' Revise line 2 and 3 to read ' ... manual actions (~~i.e., there is a high confidence of a low probability of failure~~). The rule would require time margin to account for all ~~important~~ variables ....'
  31. On page 20, last paragraph, revise lines 2 and 3 to read ' ... they would be ~~reliably~~ successful ~~a very high percentage of the time~~. In ....'
  32. On page 21, 2<sup>nd</sup> full paragraph, revise lines 1 through 3 to read ' ... least 2 would ~~allow for a "high confidence of a low probability of failure"~~ for ~~ensure that the~~ operator manual actions in response to fire ~~are sufficiently reliable~~. For ....' Revise line 4 to read ' ... and maintain ~~hot safe~~ ....' In the last line, delete the phrase at the end of the line (Section ... Feasibility).
  33. On page 22, delete the top 2 lines on the page and the 1<sup>st</sup> full paragraph.
  34. On page 22, 2<sup>nd</sup> full paragraph, revise line 1 to read 'The ~~Commission recognizes that~~ the time margin concept could ~~alternatively~~ also consist of ....'
  35. On page 22, last paragraph, revise line 2 to read ' ... minimum ~~amount of a mount~~ time ....'
  36. On page 23, 1<sup>st</sup> full paragraph, delete the 1<sup>st</sup> sentence (The time margin ... feedback.)
  37. On page 23, paragraph (A), revise line 4 to read ' ... provide a ~~technical~~ basis for ....'
  38. On page 26, paragraph 1, revise line 4 to read ' ... ~~personnel outside~~ the main control room, ~~and personnel out in the plant~~ to ensure that ....'
  39. On page 27, revise line 1 from the top to read ' ... SSCs ~~to in the~~ successfully accomplishment of required ....'
  40. On page 27, last paragraph, revise lines 1 and 2 to read ' ... criteria requires ~~that all~~ ~~manual actions be included in~~ plant procedures, ~~and to include all manual actions that~~ each operator receives training ....' Revise line 7 to read ' ... operators ~~to the appropriate~~ as to which preventive and ....'
  41. On page 28, revise line 13 from the top to read ' ... with ~~10 CFR Sections 55.59 and 10 CFR 50.120 of Part 50~~ respectively.'
  42. On page 28, last paragraph, revise the last line to read ' ... equipment is ~~available~~ operable when its ....'

43. On page 29, revise line 3 from the top to read ‘ ... ~~operability~~ **availability** of equipment must ....’
44. On page 29, last paragraph, revise line 3 to read ‘ ... manual actions ~~must~~ may not have ....’
45. On page 33, 1<sup>st</sup> full paragraph, revise line 1 to read ‘ ... that the **requirement for the** demonstration to ....’
46. On page 34, last paragraph, revise line 4 to read ‘ ... occur. The **proposed** ....’
47. On page 35, paragraph 1, revise line 8 to read ‘ ... conditions ~~survives~~ postulated ....’  
Revise line 11 to read ‘ ... room. The ~~Commission believes that the~~ proposed operator manual ....’
48. On page 35, last paragraph, revise line 1 to read ‘The **Paragraph III.G.2** compliance ....’  
Revise line 3 to read ‘ ... comparable to this **option**, ....’  
Revise line 4 to read ‘ ... actions by itself **provides** is a ....’  
Revise line 7 to read ‘ ... additional need **for** of fire ....’  
Revise line 8 to read ‘ ... that a fire **at a nuclear power plant** lasting ....’  
Revise line 10 to read ‘ ... option was **considered to be** ~~viewed~~ sufficient ~~unto itself~~ without ....’
49. On page 36, revise lines 4 through 6 from the top to read ‘Therefore, **without substantial additional justification such as can be provided by using the risk-informed, performance-based option in the Fire Protection Regulation at 10 CFR 50.48(c)**, it is not ... manual actions by itself sufficient **without fire detection and automatic suppression** as a **sufficient** compliance option to III.G.2. ~~without the additional level of defense-in-depth provided by fire detection and automatic suppression.~~’
50. On page 36, 2<sup>nd</sup> full paragraph, revise line 1 to read ‘ ... first claim, ~~the Commission believes that~~ requiring ....’  
Revise lines 7 and 8 to read ‘ ... result, ~~the Commission believes that~~ the time **it takes** until a fire **to** could adversely affect the **licensee’s** ability of ~~the plant to~~ achieve and maintain a safe **reactor** shutdown ....’  
Revise line 9 to read ‘ ... the **licensee’s** ability to ....’
51. On page 36, last paragraph, revise the last line to read ‘ ... III.G.3, **the Commission believes that** this difference ....’
52. On page 39, 2<sup>nd</sup> full paragraph, revise lines 1 and 2 to read ‘The **risk-informed, performance-based option in 10 CFR 50.48** ~~is NRC exemption process in Section 50.12 or the specific license conditions will remain~~ available to those licensees who wish to demonstrate ~~compliance~~ that ....’  
Add the following at the end of the paragraph:  
“Although the exemption process is available for cases that can be justified under 10 CFR 50.12, the Commission considers the use of the option proposed by this rulemaking or the risk-informed, performance-based option currently provided in 10 CFR 50.48(c) more desirable in order to minimize the need for future exemption requests for addressing operator manual actions.”
53. On page 39, last paragraph, revise line 1 to read ‘ ... considering **the** technical ....’  
Revise line 2 to read ‘ ... the Commission **has tentatively** decided that ....’  
Revise line 3 to read ‘ ... rulemaking **should** ~~will~~ require fire ....’

54. On page 40, revise line 4 from the top to read ‘ ... is asking **for** specific ....’
55. On page 40, paragraph (A), revise line 3 to read ‘ ... fixed? **An automatic** ....’ Revise line 5 to read ‘Provide **the your** rationale ....’ Revise line 6 to read ‘ ... level of protection **in the proposed III.G.2 (C-1)**.’
56. On page 43, paragraph 3, revise line 1 to read ‘ ... NRC **believes** ~~determined~~ that ....’
57. On page 43, last paragraph, revise line 9 to read ‘ ... applied the **proposed** acceptance criteria **in paragraph III.P** to paragraph ....’
58. On page 44, last paragraph, revise line 3 to read ‘ ... CFR 50.109(a)(4)(ii). ~~The NRC concludes that~~ **Recent inspection** ....’
59. On page 45, last paragraph, revise line 2 to read ‘ ... **has tentatively** decided to limit ....’
60. On page 46, paragraph (A), remove the indentation.
61. On page 48, 2<sup>nd</sup> full paragraph, revise line 1 to read ‘ ... the Commission **believes that the continued** ~~considers continuing~~ use of the ....’ Revise lines 2 and 3 to read ‘ ... IP 71111.05 **is sufficient in the interim** and that a revision **of the existing policy or development of** additional ....’
62. On page 50, paragraph 2, revise line 2 to read ‘ ... actions are **available** ~~operable~~ and equipment ....’
63. On page 53, paragraph 1, revise line 7 to read ‘ ... and maintain **hot** ~~safe~~ shutdown ....’
64. On page 53, last paragraph, revise line 2 to read ‘ ... in licensees **proposing to use the risk-informed, performance-based alternative provided in 10 CFR 50.48(c) or** submitting exemptions ....’ Revise line 3 to read ‘ ... of these **actions** ~~exemptions~~ would ....’
65. On page 59, last paragraph, revise line 9 to read ‘ ... and maintaining **hot** ~~safe~~ shutdown during ....’
66. On page 63, paragraph (1), revise lines 8 and 9 to read ‘ ... for all **important** variables, including (i) ~~(†)~~ differences between the **analyzed** ~~demonstrated~~ and actual ....’
67. On page 63, paragraph (2), revise line 2 to read ‘ ... its effects, but still **be available** ~~utilized~~ to ....’
68. On page 64, paragraph (3), revise line 3 to read ‘ ... limited to) (i) ~~(†)~~ all ....’
69. On page 64, paragraph (c), revise line 2 to read ‘ ... action are **available** ~~operable~~ and readily ....’
70. On page 64, paragraph (d), revise line 5 to read ‘ ... may not **rely upon** ~~implement~~ operator manual ....’